



WILLIAM FOX about the 1860's

(Courtesy of Alexander Turnbull Library)

WILLIAM FOX

Early Colonial Years, 1842-1848.

A thesis, presented in partial fulfilment of the
requirements for the degree of Master of Arts in
History, by B.J. Poff.

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PREFACE

This is a partial sketch of a man who, if he enters people's thoughts at all today, which mostly he doesn't, wafts insubstantially about, caught momentarily in blurred and unlikely postures of philanthropist, crank, or land-grabbing villain. Inconsistency, it would seem, was the most consistent thing about him; and, indeed, Fox contradicted himself in writings and speeches with such cavalier casualness that one suspects he did it without being aware of the fact; which does very little to help the historian, who has to rely a good deal on writings and speeches. So the original plan of this thesis to be a "political biography" of Fox quickly evaporated to the small grains contained here: an incomplete picture of a man during six years of a life that extended over eighty-one.

Except for the opening chapter on his English background, which consists mainly of a collection of possibilities, I approached Fox with three vaguely-defined assumptions: one, that there was no such thing as "political biography" distinguishable from "biography"; two, that in everybody outside a mental hospital there has to be at some level a consistent element; and three, that there was no such person as William Fox. The last may sound a little odd, but it meant only that I gave up trying to trace an outline on to which I could gradually apply colour and contour and worked instead to collect as many pieces as possible and fit them together into whatever pattern coherence seemed to dictate, and then step back and say, 'Ah, William Fox'. The encounter never actually took place; but that was the idea.

The pieces were picked up wherever they could be found but a heavy

reliance had to be placed on the New Zealand Company archives, the columns of the New Zealand Gazette and Wellington Spectator and Nelson Examiner; as the contents of these were often consciously contrived to create a desired impression, such reliance was unfortunate, but nevertheless inescapable. Another major source was the diary of the Nelson settler, John Waring Saxton, which provides a fascinating glimpse of the interaction of personalities in a small colonial community. Often tightly-written, sometimes obscure, the diary is permeated with Saxton's own insecurity and sensitivity to his social status and needs perhaps more cautious treatment than I have dealt it. But his factual reporting was invariably clearer than that of the Examiner; and as a brother-in-law of Joseph Soames, the governor of the New Zealand Company, and a man indebted to Fox for arranging an exchange of sections, he was close to the Company agency and retailed much information which was often corroborated from other sources. He was also a paragon of caution and discretion, (he was frequently put in the chair at contentious meetings) and so received the confidences of many people. His great merit as a diarist was that he recorded not only what was being said but who was saying it.

A man gets his identity by being mirrored in his fellows, and when the mirrors are foggy the reflections are obscure. One of the first things I discovered about the men who worked and lived with Fox was their anonymity. Who were Henry Seymour, William Cautley, Dr. Greenwood? Who were Edward Stafford and Constantine Dillon, come to that? And who, indeed, was Colonel William Wakefield, other than the unlikely conjunction of prostrated sloth (courtesy the letters of Samuel Revans) and devilish conspiracy (courtesy the letters of Henry

Chapman). Until more is known about Wakefield, Fox must necessarily resist the summons. (It would be useful, from the point of view of both research and writing, if biographies could be written in batches.)

Life in the settlements of the 1840's involved dealing with people one knew; "politics" consisted largely of calling one another names. There was no anonymity then so I make no apology for concentrating on the peck-peck of the daily round. The orderly stacks of copper-plate correspondence in the Government and Company archives give an impression of administrative efficiency and bureaucratic anonymity which is quite false - "shambles" describes it better. The "government" was a ramshackle collection of nondescripts with pretentious titles; the archives of the Colonial Secretary (a rich lode for Fox, I suspect, but one which I have not yet, for logistic reasons, uncovered) consist mainly of letters from "administrative officers" like George White and Donald Sinclair and need to be handled with even longer tongs than does the diary of John Saxton.

The "Company" too was a ramshackle collection of people, although I have from force of habit and lazy convenience referred to it as "the Company" as though there was some sort of monolith to which the term was applicable. How the various agents in the colony, the directors in England and the Wakefields worked, or did not work, towards some discernible objective has yet to be traced;* the way the officials of the Company exercised powers which normally inhered in government was a fundamental element of the Crown Colony days - the squabble with the government was not simply a dispute over land.

It has not been possible to assemble here enough pieces which of themselves say who William Fox was, and I have taken the liberty to

interpret fairly freely on his attitude to the Maoris and his subjective response to the land itself; but on the whole I have tried to avoid generalising because the span of the study is too short and its draught too shallow; it is much easier to put a man in a biographical pot than it is to get him out again. If some sort of bold gesture is required, one might say that William Fox was a backwoodsman who had the misfortune to go to Oxford.

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In assembling this material I have had much help from the library staffs at the National Archives, Turnbull and General Assembly Libraries, whose friendliness has made research a real pleasure. The Law Society, Lands and Survey Department and Mr. Guy Lennard of Rotorua have also been most helpful. I am especially grateful to Mrs Gail Ring for typing the thesis, at some inconvenience to herself, to my wife Christine for correcting the copy and giving me the occasional prod, and to three small boys for putting up so long with William Fox.

- * M. Turnbull, The Colonization of New Zealand by the New Zealand Company, 1839-1843, (B. Litt. thesis, Oxon., 1950) is a good study of the operation of the Company in England but the colonial end is treated rather too much as an instrument of London.

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ABBREVIATIONS

ATL	Alexander Turnbull Library, Wellington
CO	Colonial Office.
<u>DNZB</u>	<u>Dictionary of New Zealand Biography.</u>
<u>Exam</u>	<u>Nelson Examiner and New Zealand Chronicle.</u>
Hocken	Hocken Library, Dunedin.
<u>Independent</u>	<u>Wellington Independent.</u>
LS - Bett.	Letters from Settlers, Bett Collection, Alexander Turnbull Library.
NZC	New Zealand Company.
<u>NZGWS</u>	<u>New Zealand Gazette and Wellington Spectator.</u>
Sec. NZC	The Secretary of the New Zealand Company.
WW	William Wakefield, principle agent of the New Zealand Company at Wellington.

CHAPTER 1.

THE EMIGRANT

On the morning of Wednesday, 2 November 1842, the 460-ton barque, "George Fyfe", 140 days out from Portsmouth under Captain Pyke, raised Cape Foulwind on the west coast of New Zealand.¹ She carried 129 passengers for the New Zealand Company settlements at Wellington and Nelson,² among them a small, fair Northcountry-man whose eyes, grey like the sea, fixed steadily on the high silent land he had come around half the world to find. Range upon range looked back, dead and indifferent. Without a flicker of emotion he described in his diary the precise outlines of the Cape, the forest on the hills. As the "George Fyfe" beat into Cook Strait, he was apparently still preoccupied with the interminable sea: "Several porpoises alongside the ship and a seagull, three cape pigeons and a molly mawk. Yesterday we saw three grebes or divers on the wing, and a flight of small terns". On November 7th the arms of Port Nicholson closed around them: "Overcast with wind. Sunshine between squalls. Fire occurred. Fifty-six houses burnt". As advised many years later, William Fox was sticking "to his facts and figgers in which he is mighty strong, partickler the latter".³

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1. W. Fox, Log of the Voyage of 'George Fyfe'. Unless otherwise stated the following account of Fox's voyage out is taken from this source.
 2. NZGWS, 9 Nov 1842; NZC 7th Report, App. C.
 3. Exam, 1 Apr 1848.

The hard-headed addict of statistics who, said his fellow-passenger Constantine Dillon, was a "perfect disciple of Adam Smith and reduces everything in life to £.s.d. and Manchester opinions",⁴ had arrived in the country he was to lead as premier four times⁵ and flog with polemics for most of his life. But another Fox, romantic dreamer, artist and adventurer, had arrived too, smuggled in behind the cardboard calculator.

This other Fox seldom intrudes into the journal he kept on the voyage out. Neither does his wife, Sarah, nor Dillon, nor other passengers like Charles Clifford, with whom Fox spent long hours in close conversation.⁶ Sarah's discomfort in the tropics inspired him to design a lady's shower-bath which he describes in great detail and was proud to see erected on the poop-deck. The stupidity of the surgeon, who asked at what latitude they might expect to see the equator, earns a note of malice. The male cabin passengers make only one appearance, trailing behind Fox in the score-sheet of the only shooting-match he recorded. From the remark of another diarist that when it came to shooting Henry Redwood "makes 'muck' of 'em all",⁷ his victory was perhaps remarkable enough. There are sketches of passengers and crew but they are thin, anaemic drawings, animated only in the instance of the chief mate who is told to "put your head in a bag", and even this appears from the pencil to be an

4. C. Dillon to Fanny Dillon, 25 Nov 1850, Dillon Letters, p.127.

5. May-June, 1856; July 1861 - August 1862; June 1869 - September 1872; March-April 1873. G.H. Scholefield, New Zealand Parliamentary Record 1840-1949. pp. 31-5.

6. C. Clifford, Diary (Jun-Oct 1842), Clifford Papers, Canterbury Museum. Cited by R. Gaudin, Clifford of Stonyhurst, p.4.

7. J. Ward, Journal, 28 Aug 1842.

ex post facto injunction. But Fox's journal is on the whole a stark document from which the human dimension, the most interesting, if most oppressive, feature of long voyages, is rigorously excluded. Perhaps in an attempt to fulfill his own resolution to record "a plain unvarnished tale ... and nothing extenuate nor set down ought in malice",⁸ he turned outwards from the omnipresent crush of people to the sea and the birds. He reserved his most careful drawing for birds, and wrote about them at length. They relieved the monotony of his voyage and provide the few pages of the journal which have any life. Much of the log gives the impression that Fox, like the officer of the watch, is recording from a sense of duty, striving to be useful even at the risk of being trite - "Nothing particular occurred", is a frequent entry. His dedication to the "plain unvarnished tale", was such that the tragic and trivial passed without differentiation. He wrote in the same flat tones of skies cloudy and houses burning, and of hens and men being washed overboard and drowned.

Fortunately there are other accounts of the "George Fyfe's" voyage where people displace facts and figures, and there is one private letter of Fox where a little emotion is leaked into the narrative.⁹ When Joseph Ward described the drowning of a seaman

8. The latter half of this legend, which forms a frontespiece to the Log of the Voyage of "George Fyfe", was later inscribed on the masthead of the Wellington Independent.

9. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

on 18 August 1842 it was with harrowing details of how the man fell from the yard into the water, and how a boat was swung out but the seas being too big was brought inboard again. "Oh! dear! Oh! dear!" he cried, "I shall never forget this day".¹⁰ Nor many others; especially when revolting boiled beef was served up in the tropical heat. "Beef!! Ox flesh! very old "Ox" too or else a Bull. My eyes! 't is rum doings!"¹¹ Poor provisioning by the brokers, Phillips and Tiplady, whom Fox described as "out and out rogues", led to a crisis halfway through the voyage. By August 10th fresh food had run out and the water gone bad. Approached by Clifford, Captain Pyke said he had no authority to put into Capetown but was prepared to do it if the passengers so demanded. A list of grievances was drawn up by Fox and Clifford. At a meeting chaired by Clifford these were passed unanimously.¹² The ship sailed into Capetown where the Foxes spent an enjoyable and rewarding week while the ship reprovisioned.¹³ The passengers later showed their appreciation for the captain by presenting him with a purse of twenty sovereigns.¹⁴

The "George Fyfe" was divided into three sections, cabin, intermediate and steerage,¹⁵ "which parts", Ward noted, "at unknown

10. Journal, 18 Aug 1842.

11. Ibid., 4 Jul 1842.

12. Gaudin, pp. 4-5.

13. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

14. NZGWS, 26 Nov 1842.

15. She was the first ship to carry Intermediate Class passengers and thus began the 'second phase' of New Zealand Company emigration when an effort was made to attract small farmers rather than great capitalists. M. Turnbull, The Colonisation of New Zealand by the New Zealand Company, 1838-43, pp.367-8.

intervals do somewhat intermix - In part as intimately as plum pudding and however intimately you may readily conceive the plums are easily distinguished".¹⁶ This was sometimes to the disadvantage of the plums, for what went on in the cabin scandalised the steerage: "Tipsey + +. Very bad", Ward recorded of the cabin passengers.¹⁷ Already the mystique surrounding the better people was evaporating. Edward Gibbon Wakefield's society was not transplanting well,¹⁸ even though the plants themselves were said to be selected "from various parts of Old England".¹⁹

* * * * *

William Fox was born at Westoe in County Durham on 20 January 1812, the third son of George Townshend Fox, J.P. a deputy Lord-Lieutenant of the county.²⁰ Although wealthy,²¹ of the gentry, and entitled to bear arms, the family was not of sufficient blood or money to enter the published genealogies until led in by Sir William himself.²² There were six sons, of whom five survived to receive their education at either Oxford or Cambridge. The

16. Ward, Journal, 28 Aug 1842.

17. Ibid., 2 Aug 1842.

18. Wakefield described his objective as "the removal from this country, not of persons merely, but of society...." Wakefield and J. Ward, The British Colonization of New Zealand.... p.68.

19. Ward, Journal, 28 Aug 1842.

20. Alumni Oxonienses (1715-1886), 1888; N.Z. Herald, 24 Jan 1893.

21. According to H.S. Chapman, a zealous, but not always accurate, commentator on other peoples affairs. Chapman to his father, 10 Oct 1848. Chapman Letters.

22. He was knighted (K.C.M.G.) in 1879, and listed in Debrett's Peerage, Baronetage, Knightage and Companionage, 1887, p.600.

eldest, John,²³ presumably succeeded his father at Westoe. George Townshend²⁴ and Robert Stote²⁵ went from Durham School to university and then into the Church. George later became a canon of St. Oswald's Cathedral, Durham, the author of a tract against papists²⁶ and a benefactor of the Nelson Institute Library.²⁷ Robert was rector of Nowton, Suffolk.²⁸ Henry Watson²⁹ passed from Durham School to Rugby, where his spirit was fired by Dr. Arnold. After ordination he went in 1841 with the Church Missionary Society to South India where he worked with energy and great singlemindedness among the Telugus before he was driven back to England by a disease, from which he died at Westoe in 1848 at the age of thirty-one. He was the most celebrated of the brothers. His memory was preserved in a scholarship at the South India College of Masulipatam and an annual sermon at Rugby.³⁰ He was close to William, who published a memoir of his life and left the bulk of his estate to his eldest son, Henry Elliot Fox.³¹ Missionary enthusiasm has continued down to the descendants of Henry Watson.³²

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23. Born 1808, Worcester College, Oxford, 1826, B.A. 1830. Alumni Oxonienses, 1888.
 24. Born 1811, Trinity College, Cambridge, 1843, B.A. 1848, M.A. 1851. Died 1886. Alumni Cantabrigienses, Part II, Vol 2. (This entry confuses him with the elder George T.)
 25. Born 1820, University College, Cambridge, 1838, B.A. 1842, M.A. 1845. Alumni Oxonienses, 1888.
 26. In the Hocken Library, Dunedin.
 27. His donations of books were considerable. They included a 60 Volume Universal History and the "Proceedings of the World Temperance Convocation", Exam, 27 May 1848.
 28. Alumni Oxonienses, 1888.
 29. Born 1817, Wadham College, Oxford, 1836, B.A. 1839, Ibid.
 30. A.J. Arbuthnot, Dictionary of National Biography (1950 ed), VII, 569.
 31. & 32. see next page.

William's name is not entered with those of his brothers in the registers of Durham School.³³ It first appears in Wadham College, Oxford, where he matriculated in 1828 at the age of sixteen. He graduated B.A. in 1832 and proceeded M.A. in 1839. He did not enrol for the M.A. and was not in residence at the college after 1832. The higher degree was, therefore, not an Honours one and involved no work, only paying college dues. We do not know how he spent the time between 1832 and late 1838, when he began to read law, but as he would have been eligible to take his M.A. in 1835 it is possible he was travelling abroad.³⁴

The course he read at Oxford was based largely on the classics. Probably the most significant influence on him was Richard Whately, logician, rhetorician, political economist, antimetaphysical cleric and vigorous opponent of the Tractarians. Whately taught at the university from 1825 until 1831, when he left to become Archbishop

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- 31. Information through the courtesy of the Librarian, Wadham College, Oxford.
 - 32. The eldest son, Henry Elliot, was a lawyer and missionary who worked in South India and as Church Missionary Society Secretary in London. He died in 1926. His three sons (Henry Elliot, George Townshend and John Grafton) were all missionaries. The last two died of blackwater fever in Nigeria about 1919-20. The first died about ten years ago after working in the C.M.S. and Y.M.C.A., London. Alumni Cantabrigienses, Part II, Vol. 2, and C.M.S. records, London, through the courtesy of the Archivist.
 - 33. Information through the courtesy of Durham County Archivist, and Professor W.R. Ward, University of Durham. However, these records are not always complete. Cf. G.H. Scholefield, DNZB, i, 274.
 - 34. Information through the courtesy of the Librarian, Wadham College, Oxford.

of Dublin and the centre of a controversial attempt to develop a "mixed" system of education in which Roman Catholic and Protestant children would study religion together from a common scripture book.³⁵ On the few occasions that Fox acknowledged his intellectual sources it was to Whately that he bowed.³⁶ Whately was a strong advocate of emigration, which in 1838 he urged as a palliative for Irish poverty.³⁷ He was later an enthusiast for Edward Gibbon Wakefield's systematic colonisation and sat on the New Zealand Committee in Dublin.³⁸

At the end of 1838 Fox entered the Inner Temple, London, to study law. At this time a student had to pay fees and keep twelve terms, of which there were four in each year, by eating the prescribed number of dinners at the Inn. The rules said only that a student should "read in chambers" with a barrister. He had to produce a certificate to that effect before gaining admission to the profession, but there were no examinations.³⁹ If all went well, Fox should have completed his reading by 1841, but he was not called to the bar until 29 April 1842,⁴⁰ less than two months before he sailed to New Zealand. In the interval, he worked as a Special Pleader, which involved him in complicated exchanges of written submissions described by Holdsworth as of "extreme precision, technicality, and subtlety",⁴¹ and castigated

35. J.M. Rigg, Dictionary of National Biography, xx, 1334-40.

36. Thomas Arnold to his family, 1 Feb 1849, New Zealand Letters of Thomas Arnold the Younger, p.33; W. Fox, The Six Colonies of New Zealand, p.70.

37. C.E. Carrington, John Robert Godley of Canterbury, p.36.

38. J.S. Marais, The Colonisation of New Zealand, p.47.

39. R.M. Jackson, The Machinery of Justice in England, 4th ed., 1964, p.242.

40. Note by H.S. Chapman on the title page of Fox's Treatise on Simple Contracts and the Action of Assumpit, Hocken Library, Dunedin.

41. W. Holdsworth, History of English Law, ix, 263.

by Dickens as "mountains of costly nonsense".⁴² Practice in making a good case out of an unpromising situation proved useful in his later work as New Zealand Company agent, but may also have encouraged him to elevate argument over truth.

While a Special Pleader, Fox published a Treatise on Simple Contracts and the Action of Assumpist, which many years later he thought worthy of presentation to Mr. Justice Chapman.⁴³ It is a very technical work, written for a legal audience. He may have hoped by it to simplify the law of contract, advertise his talents to the profession, or simply make some money. How it was received we do not know, but its publication came too late for the reception to have influenced his decision to emigrate to a Wakefield settlement in New Zealand.

The propaganda of the Wakefield publicists was directed at the "middle or uneasy class", the "briefless barristers" and professional men.⁴⁴ It never quite escaped Wakefield's own social unease, and the failure which distorted his view of England, so that those who went abroad at his behest carried with them the stigma of failure too. It is rather ironic, from Wakefield's point of view, that his propaganda has been accepted in some places as a valid description of the better class of people he set out to attract.⁴⁵ From Pilgrims they have become misfits and fugitives from penury. It is undoubtedly true of Fox that he hoped by emigrating to improve his position socially and economically - when his hope dimmed he was on the point of

42. C. Dickens, Bleak House, Chapman Hall, London, (2 vols), nd. i, 3.

43. Published by Stevens and Norton, Lincoln's Inn, London, 1842. Chapman's copy in Hocken Library, Dunedin.

44. E.G. Wakefield, England and America, i, 82, 94, passim; Wakefield and Ward, p.7.

45. M. Turnbull, The New Zealand Bubble, p.41.

giving New Zealand up.⁴⁶ But, as Francis Dillon Bell later remarked, no one came out to New Zealand to be less well off than they were at home.⁴⁷ Fox was not badly off at home. His father could afford him £300 a year⁴⁸ which, with his education and energy, promised a modest living. There must have been dozens of other barristers with less behind them and less before them who elected to stay in England. The inadequacy of the "briefless barrister" account of emigration is not that it is untrue of those barristers who emigrated but that it is equally true of many more who stayed at home. If, as Gibbon Wakefield calculated, "two-thirds of professional men may be reckoned among the uneasy class,"⁴⁹ then his ships should have been filled by them to overflowing if lack of ease was the mainspring of the migratory urge.

After they had softened up their audience with a litany of fear, however, the Wakefield theorists introduced a ray of hope - the colony, where there was "ample scope for gaining wealth and distinction".⁵⁰ If fear for the future was not sufficient to drive forth all the briefless barristers then it must have been hope for the future which lured those who went.

Hope and optimism are the ingredients of progress, and if improvement rather than mere eeking out of survival was their aim then it seems

46. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

47. F.D. Bell, Circular Letter No. 3, 17 Sep 1844, LS, 1844-48, Bett.

48. Chapman to his father, 10 Oct 1848, Chapman Letters.

49. E.G. Wakefield, England and America, i, 95.

50. Wakefield and Ward, p.7.

churlish to deny that they had visions of a better world - better for themselves certainly, but not for themselves only. Optimism is the quality of adventurers. In a letter to J.R. Godley, many years later, Fox referred to his early "Robinson Crusoeish" dreams of pitching a tent in the Pacific Isles.⁵¹ This feeling of self-sufficiency, though often marred by racial and cultural arrogance, was a positive quality without which few would have got to the point of trying New Zealand. Many a man has rotted where he stood for fear of falling to pieces if he moved. This much Fox knew. In a book published in 1842, he told his readers: "It were easy for anyone, intending to remain here, to say to others, 'Go and emigrate'. What I say is, 'Follow me!'"⁵²

Fox's second book, Colonization and New Zealand, is a curious blend of regurgitated New Zealand Company propaganda and justification of his own migration, which he saw clearly implied failure at home. He said the book was intended to inform "such of my friends and neighbours as may happen to hear of my departure"⁵³ that New Zealand was a place worth going to. From his references to the opposition and ignorance the intending emigrant would encounter,⁵⁴ either his friends and neighbours thought he was mad to go or he wanted to convey this impression to show that he himself was not of the "uneasy classes" for whom migration was an inestimable boon. In the most interesting and original writing he beckoned with one hand for followers while with the other he batted disdainfully into

51. Fox to J.R. Godley, - 1858, Canterbury Papers, Letters to Godley, Vol. 3.

52. Fox, Colonization and New Zealand, p.16.

53. Ibid., p.6.

54. Ibid., p.22.

the lingering hell of England all those who resisted his plea.⁵⁵ These parts were typically Fox. The rest of the book painted a picture of New Zealand so irresistible as to make further justification superfluous, and the picture was typically New Zealand Company.

From the title page which misquoted Milton concerning

This delicious place, where thy abundance
wants partakers, and uncropp'd falls to
the ground.⁵⁶

on to the natives of this Eden who run eagerly to school and prayer, to the Company's system and to the six hundred "respectable capitalists" whom he calculated had gone out under it,⁵⁷ Fox was rewriting myriads of similar books and pamphlets, and lifted much of his message almost verbatim from Wakefield and Ward.⁵⁸ He avoided the worst excesses about the climate and the thriving vines because hyperbole of this sort was not really his style, but came into his own when he switched from hope abroad to impending doom at home, stacking the statistics to demonstrate, if that were necessary, that masses of Englishmen lived in poverty.⁵⁹ The book manages to rise above the second hand material on which it is based because it conveys the conviction of the author and occasional glimpses of his dream. New Zealand was not only a place where all classes would advance to pros-

55. Ibid., pp. 16, 20-21.

56. Paradise Lost, Book IV, line 730. Milton said "...this delicious place for us too large...." an interesting omission by Fox.

57. Fox, Colonization and N.Z., pp. 3-4, 13-14, 22.

58. J. Ward, Information Relating to New Zealand, first published 1839, was his principle quarry, providing even a title page quotation from Shakespeare which Fox did his best to match from Milton. Ward was much rehashed, Turnbull, Colonisation of New Zealand, p. 257.

59. Fox, Colonization and N.Z., pp. 16-18.

perity, said Fox, but one where an adventurer like himself might become "lord of a territory".⁶⁰ The reluctant relations could think about that. Even for a barrister with briefs such a vision was irresistible.

Although self-justification is the dominant theme of this six-penny sermon, Fox may also have had it in mind to lure potential clients in his wake, and establish his bonafides with the New Zealand Company, of which he said, "All they have done has been admirably done,"⁶¹ but with which his connections are rather obscure.

He is described as being a family friend of the Petres and the Wakefields.⁶² He met Henry Petre, who returned temporarily to England from New Zealand in 1841, and cites his evidence as to the high tone of society in the colony,⁶³ but there is little evidence that they were friends. He corresponded occasionally with Edward Gibbon Wakefield, who provided him with a letter of introduction to his brother, Colonel William Wakefield, the principal agent of the New Zealand Company at Wellington, whom Fox had never met. He referred to Edward Gibbon's son, Edward Jerningham, as his grandson, however, and this does not indicate intimacy with the family.⁶⁴ Jerningham was in Wellington when the "George Fyfe" arrived and went aboard to meet Constantine Dillon. He remarked on the presence of William Vavasour and Charles Clifford, but made no mention of William Fox,⁶⁵ who himself

60. Ibid., p.13.

61. Ibid., p.22.

62. Gaudin, p.4; Turnbull, Colonisation of N.Z., p.32.

63. Fox, Colonization and N.Z., pp. 12-13.

64. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

65. E.J. Wakefield, Adventure in New Zealand, from 1839-1844....., i, 292.

had no comment on the meeting.⁶⁶ In the Wakefield family correspondence of the 'forties he was usually addressed, and referred to, as "Mr. Fox" rather than the more familiar "Fox".⁶⁷ References to him are not numerous and do not suggest long-standing friendship. At Nelson he was said to be serving the Wakefield party rather than the New Zealand Company,⁶⁸ but at New Plymouth it was noted approvingly that he was outside the Wakefield clique.⁶⁹ When he returned to England in 1851 the Company and the Wakefieldian Canterbury Association were engaged in open battle. Wakefield was not at all sure which way Fox would jump and was "vigilant and diligent" in getting to him first.⁷⁰ Fox did not know Joseph Somes, the governor of the Company⁷¹ or J.C. Harington, who became its secretary in 1843,⁷² and had never, he said, been inside Broad Street Buildings⁷³ where its offices were located since 1839.⁷⁴ He did receive a gift of Bass ale from William Bowler,⁷⁵ but this was when he was agent at Nelson and maybe thought worth cultivating by this celebrated doorkeeper and factotum at Company headquarters. His links with both the Wakefields and the Company seem rather tenuous, perhaps as much a conse-

66. Fox, Log of the Voyage of "George Fyfe".

67. E.g. WW to his sister, Catherine Torlesse, 19 Sep 1843, Canterbury Papers, Wakefield Family Correspondence and Letters to J.R. Godley, i, 38; WW to E.G. Wakefield, 1 Apr 1843, CO 208/127.

68. J. Saxton, Diary, 9 Sep 1845.

69. P. Wilson to D. McLean, 11 May 1849, McLean Papers, iv, 217.

70. E.G. Wakefield to Godley, 11 Jun 1851, Canterbury Papers, Wakefield Family Correspondence and Letters to Godley, i, 163.

71. Saxton, Diary, 12 Nov 1845.

72. Harington to Fox, 30 Nov 1846, CO 208/127.

73. Saxton, Diary, 12 Nov 1845.

74. Marais, p.46.

75. Saxton, Diary, 14 Jul 1847.

quence as a cause of his decision to emigrate to New Zealand.

Most emigrants, including relatives of Fox,⁷⁶ were looking towards North America. He was probably better suited by temperament to the vast, disorderly and more overtly aggressive American frontier, where there was no nonsense about vesting the plains in the Indians. On the other hand, and paradoxically it may seem, the crisp logic of Wakefield's system, "one of those discoveries which is so simple that its truth must be apparent to the meanest apprehension",⁷⁷ undoubtedly appealed to the schooled utilitarian intellect.

New Zealand had been brought to the notice of the Fox family at least as early as February 1840. Henry Fox, who was then at Wadham, (the only brother of William to go there), intimated to Dr. Arnold at Rugby that he would like to go as a missionary to India. Arnold was sympathetic, but replied that the Christians needed as much civilising as the Hindus and that a man like Henry, who went "not for the sake of making money", would be invaluable in New Zealand or Van Dieman's Land.⁷⁸ Arnold was an enthusiast for colonisation, and had himself in 1839 bought two-hundred acres of land from the New Zealand Company. He was also an old friend of Richard Whately.⁷⁹ Arnold's son, Thomas the younger, was a close friend of Henry Fox. When the young Arnold met William in 1849 he thought him "a very good stirring fellow, like his brother Henry", and wondered how it was he had not heard in England that he was in New Zealand.⁸⁰ Fox moved on the fringe of an Arnold-

76. From the evidence of a painting of the house of "C. Fox" at "Grosse Isle, Detroit, 1853", ATL.

77. Fox, Colonization and N.Z., p.6.

78. Dr. Arnold to Henry Fox, 21 Feb 1840, A.P. Stanley, The Life and Correspondence of Thomas Arnold, D.D. ii, 170-1.

79 and 80. See next page.

Whately circle.

A later influence on Fox may have been Henry Samuel Chapman and his group of radicals at the Inns of Court.⁸¹ In New Zealand, Fox and Chapman became as intimate as was possible for two somewhat disagreeable men.⁸² They were alike in many ways - democrats in their genuine aspirations for the common man, yet aristocratic in their own ambitions. Chapman's long interest in colonial matters brought him into contact with Wakefield, although they were never close personal friends. He acted as a voluntary emigration agent in the law courts and edited the New Zealand Journal.⁸³ Chapman had in New Zealand a friend and correspondent, Samuel Revans, with whom he had conducted a radical newspaper in Canada in 1833-34.⁸⁴ Revans was later a bitter opponent of the Wakefields and the New Zealand Company, but he was still an enthusiast when he wrote to Chapman in June 1841 urging him to come out to the colony. "We really want a good and industrious lawyer here", Revans wrote. He described the abundance of work available with the subdivision of property, and then painted an unflattering gallery of the present Wellington lawyers.⁸⁵ Chapman was not yet ready to go, but Fox may have been firmed towards New

79. J. Bertram, ed., Arnold Letters, pp. xxvii-xxix.

80. Thos. Arnold to his family, 1 Feb 1849, ibid., p.104.

81. Turnbull, Colonisation of N.Z., p. 192.

82. Chapman to his father, 10 Nov 1850. But cf. that of 6 Apr 1847. Chapman Letters.

83. Turnbull, Colonisation of N.Z., pp. 107, 192.

84. There is a good glimpse of Chapman by R. Jones, An Encyclopedia of N.Z., i, 333-4.

85. S. Revans to Chapman, 13 Jun 1841, Revans Letters.

Zealand by the receipt of such information. It was clearly as a lawyer that he hoped to work there. On the 29 April 1842 he entered the bar of the Inner Temple,⁸⁶ four days later he married Sarah Halcombe, daughter of a Wiltshire squire,⁸⁷ whence to Portsmouth and the "George Fyfe" to sail on 20 June 1842 for Wellington.⁸⁸

* * * * *

The ship anchored in Port Nicholson at 8.00 p.m. on Monday 7 November 1842.⁸⁹ Strong winds increased to gale force over the next day. On the night of November 9th the fire broke out. Looking back on the incident after a lapse of seven months, Fox was more inclined to reveal something of his deeper concern. "Viewed from the ship it appeared most terrific - aided by the violence of the wind it rushed from house to house, sweeping all before it....." To him and his wife still on the "George Fyfe" it appeared that the whole place had been destroyed and they wondered where next they would sail.⁹⁰ Morning showed that although there was damage to the extent of £10,000 - 12,000,⁹¹ most of the settlement had escaped; and they resumed their preparations to disembark.

On shore, Fox was met by Dr. Issac Featherston, a Northcountryman like himself and a possible factor in his decision to emigrate. Col-

86. Chapman's note in Fox, Treatise on Simple Contracts, Hocken Library.

87. Debrett, 1887, p.600; Scholefield, DNZB, i, 150.

88. Fox, Log of the Voyage of "George Fyfe".

89. Ibid.

90. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

91. NZGWS, 12 Nov 1843.

onel Wakefield was away in Auckland,⁹² but with Featherston's help Fox arranged to rent a house from A. de Brandon for thirty shillings a week.⁹³ As Brandon was solicitor to the New Zealand Company⁹⁴ it may have been a Company house. It was a comfortable white cottage with a slate roof, neat chimney of red brick and four large windows across the front.⁹⁵

The day after he had arranged the house, Fox went ashore again to see what could be done about gaining entry to the New Zealand bar.⁹⁶ There was a difficulty over this because the Chief Justice of New Zealand, William Martin, whose responsibility it was to admit barristers, had completed the first session of the Supreme Court a week or so before Fox arrived and gone off to Auckland overland. But the Registrar of the court, Thomas Outhwaite, who was in Wellington, agreed to an arrangement by which Fox presented his qualifications to the local county judge to send north to Martin.⁹⁷ In anticipation of a favourable reply from the chief justice, Fox was allowed to embark on his professional practice immediately.⁹⁸

From his comfortable cottage, installed now with elegant furniture, including a fine piano,⁹⁹ the emigrant looked out on the collection of muddy huts and measured it against his antipodean dream.

92. Ibid., 7 Dec 1842.

93. Fox, Log of the Voyage of "George Fyfe".

94. Revans to Chapman, 13 Jun 1841, Revans Letters.

95. From a painting by Fox in ATL.

96. Fox, Log of the Voyage of "George Fyfe".

97. NZGWS, 9 Nov 1842, 30 Aug 1843.

98. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

99. Charlotte Godley to her mother, 10 Sep 1850, Letters from Early New Zealand, p. 101; Saxton, Diary, passim.

CHAPTER 2.NO EDEN

Fox believed what he had read, and what he had written, about New Zealand. Turnbull says that while all the publicists deluded themselves about the country, those involved in the administration of the New Zealand Company "knew there were grave difficulties and knew the plan was not working". Fox seems not to have been a party to such information.¹ His optimism was unrestrained, his delusions complete. So, accordingly, was his disillusionment.

When he brought himself to write to Edward Gibbon Wakefield, which was not for seven months, he told the prophet that the promised land was "much over-rated". He did not mind that "the delicious song of the birds" and "the advancing civilization of the Maoris" proved empty fiction, but expected something more substantial in the way of a town. He was disturbed that there was no money, except when a ship brought new people like himself, and that the whole place seemed to float on a delusory notion that the Company was soon to get a vast loan from the British government. "All this," said Fox, "was very disheartening." His first thought was to flee; but he decided to stay when assured of the advantages of an early establishment in the law. He had a small independent income which would keep him going until "the palmy days of the colony should arrive" and his patience be rewarded. For stunned as he was by the depressing reality of the

1. Turnbull, Colonisation of N.Z., pp. 319-20.

place he soon began looking for the good points: the land was productive, the climate excellent, the harbour beautifully sited. Irrepressible, he decided the future held great promise, although at present things were more "in a state of expectation than of actual progress.. .." He started immediately to practice law. He said he found business as good as he had been led to expect.² This could not have been too remarkable, for a month after landing he was devoting most of his time to editing the New Zealand Gazette and Wellington Spectator.

* * * * *

The Gazette was a folded sheet of four pages published Wednesday and Saturday mornings from a hut in Taranaki Place and first issued by Samuel Revans in London in 1839 as publicity for the New Zealand Company scheme to colonise New Zealand.³ It claimed sales of three hundred copies,⁴ one hundred of which were sent regularly to England.⁵ Revans tired of the paper in 1841 but was unable to sell it for want of a buyer. He tried various editors without much success. On his

2. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

3. G.H. Scholefield, Newspapers in New Zealand, p.25; T.M. Hocken, "The Beginnings of Literature in New Zealand: Part II, the English Section - Newspapers", Transactions and Proceedings of the New Zealand Institute, 1901, xxxiv, 99-102.

4. This number "supposed to be sold" is given in an undated and anonymous record of early newspapers which is reproduced in G.M. Meiklejohn, Early Conflicts of Press and Government, facing p.49. Meiklejohn's estimation of the date of this document can be trimmed by more than a year to between August 1843 and September 1844, the latter being when the NZGWS, described in the document as continuing, ceased publication.

5. WW to Sec NZC, 10 Apr 1844, NZC 3/4.

return from Sydney in May 1842 he found John Tyson Wicksteed preparing to depart for New Plymouth where he had been appointed resident agent of the New Zealand Company by Colonel Wakefield, "having," a visitor noted, "by his manner of conducting the Gazette, given indubitable token of fitness for the situation".⁶ Furious at the grovelling Wicksteed, Revans next tried the learned Dr. Frederick Knox, whose wisdom was in excess of colonial requirements.⁷ Revans was still looking for a rugged man capable of the insult, insinuation and banter on which colonial newspapers existed when Fox arrived in Wellington. Fox is loosely described as having edited the Gazette for "a year or so".⁸ He was, in fact, involved with it for two periods, the first from 10 December 1842 to April 1843, during which he contributed most, but not all, the leading articles under Revans' nominal editorship, then, following a confused interval, from 1 July until 6 September 1843, when he was its official editor.⁹ There is a marked contrast

6. J. Wood, Twelve Months Residence in Wellington....., p.8.

7. Revans to Chapman, 10 Feb, 3 Jun 1842, Revans Letters; Chapman to his father, 10 Jul 1848, Chapman Letters; NZGWS, 7, 11, Jan 1843; Wood, p.33.

8. Scholefield, Newspapers in N.Z., p.25.

9. These newspaper columns constitute the largest single body of Fox's writings during his first year in New Zealand. Their importance made it necessary to sort out from the tangle of contributions precisely what Fox himself had written. This was done by analysing the style, punctuation, spelling, use of catch-phrases, quotations and so on, which also proved useful in isolating some of Fox's numerous contributions to the Nelson Examiner from 1844-48. Fox seems to have been responsible for the Gazette from 10 Dec 1842 to 22 Mar 1843 except for Dec 31st (G. White) and Jan 4th (White or Revans); and from 1 Jul - 6 Sep 1843. From Mar 25th to Jun 28th the paper was an amalgam of talents, with George White dominating it. Fox contributed heavily on Apr 1st, then used the issue of Apr 5th and 8th to fight Judge Martin, after which he withdrew. He contributed articles for May 24th and 31st (on conveyancing) and seems to have supplied all the copy for Jun 14th and 17th.

between the tone of his articles in the two periods, which are separated from one another by his clash with Chief Justice Martin and the Wairau Massacre, both turning points in his life.

The colonial press was less interested in news than politics, and provided the only forum for opposition to non-representative government. The Gazette had performed this function with malicious relish. Because the Company and the government were ever at logger-heads, publicity for the one married neatly with opposition to the other. The Company itself exercised powers of government, however, and in opposition to this a rival paper was launched by fifty subscribers in August 1842. The Colonist¹⁰ was edited by Richard Davies Hanson, a disappointed former officer of the Company¹¹ and then crown prosecutor at Wellington. It took a pro-government, anti-Company stance.

To associate with either of these organs was the worst thing a barrister could do on arrival in the colony because it immediately identified him with one faction and alienated potential clients or employers in the other. When Chapman was considering going out to practice law in 1843 he was told by George Earp that success would depend on his staying unconnected with the Company,¹² and when the Gazette criticised the Company, Colonel Wakefield assumed its editor

10. The New Zealand Colonist and Port Nicholson Advertiser appeared on 2 Aug 1842 and ran through 105 numbers, printed Tuesdays and Fridays, before expiring at the end of July 1843. It claimed 250 sales. Meiklejohn, facing p.49; Hocken, Trans. and Proceed N.Z.I., 1901, xxxiv, 102; Scholefield, Newspapers in N.Z., p.27.

11. WW to J.C. Harington, 15 Jun 1843, CO 208/127; Chapman to his father, 10 Jul 1848, Chapman Letters.

12. Chapman to his father, 10 Jul 1848, Chapman Letters.

had been bribed by the government.¹³

Fox was aware of the dangers, as he was alive to the possibilities, and went out of his way to alienate neither government nor Company. The government had not yet appointed the new county judge at Nelson; the Company was still expanding its operations and would need officers for New Edinburgh. In the circumstances, he reserved his sharp words for R.D. Hanson in what Fox himself described as "their would be legal warfare",¹⁴

His political moderation was a marked contrast to the denunciations of Governor Hobson which had emanated from the paper in 1841 and 1842, and led the opposition to comment on "the altered tone of the Gazette since the Colonist has shed its luminous rays over the benighted settlement of Port Nicholson". Fox dealt peremptorily with such claims. The Gazette was in new hands, he said, and has "never been swayed either as to the tone or the manner in which we endeavour to carry our opinions... by any other feeling but that of our own honest conviction...."¹⁵ As if to prove his point, he continued in the same issue to risk an opinion on the delicate issue of the settler's claims to land.

William Spain's court of inquiry into land claims was then sitting in Wellington and on February 8th and 9th the Whaler, Dicky Barrett, made admissions before it which threatened to destroy the New Zealand Company case entirely.¹⁶ Commenting on this, the Colonist suggested it was to the government rather than the Company that the settlers should look to secure their land. Fox took up this point in the Gazette

13. WW to E.G. Wakefield, 1 Apr 1843, CO 208/127.

14. NZGWS, 18 Mar 1843.

15. NZGWS, 15 Feb 1843.

16. J. Miller, Early Victorian New Zealand, p.66.

on February 15th. Without getting himself involved in polemics for or against either Company or government, he analysed the legal position of the settlers. Two things he made disturbingly clear: firstly, that the settlers, having bought not from the Maoris but from the New Zealand Company, were no concern of Spain's inquiry and had no claims at all to land except in so far as the Company claims were validated; secondly, that in the event of the Company's claims not being validated their only resource was to sue it for breach of contract.¹⁷ The government was not in a position to put the settlers in possession if the Company was denied its claims. Indirectly this opinion may have worked to the advantage of the Company by impressing on the settlers that their fortunes were linked with it. But his article underlined both the perilous insecurity of the settlers and, coming as it did after Barrett's evidence, the Company's responsibility for this insecurity. Neither party had reason to be pleased, and it may have been adverse reaction to his editorial which persuaded Fox to desist from further comment on the land claims, notwithstanding his promise to continue a series of articles on the question. When goaded by the Colonist for his silence he replied that the claims were under inquiry and it was not a fitting time to enter into them.¹⁸

Fox's land claims article was lucid and fair. The difficulties he so soberly assessed may have caused him to buy no land himself.

17. NZGWS, 15 Feb 1843.

18. NZGWS, 18 Feb 1843.

A friend had given him £150 to invest and this he lent to Dr. Grace on the security of his house and land in Wellington and thirty acres at Karori. If the uncertain title made the security slight, the interest rate of fifteen per cent compensated the risk. It was, ironically, on February 8th, the first day of Dicky Barrett's devastating evidence about the Company's land claims, that Fox concluded the mortgage agreement with Grace.¹⁹

Although he left the land claims question alone for the rest of his first period as editor, Fox analysed the law regarding most other things, from merchant seamen to Scottish marriage.²⁰ He advertised his considerable legal talents in this way, and could write hard-hitting articles without taking sides in colonial politics. When Captain Mein Smith shot some chickens trespassing into his garden from Mrs Wakefield's yard Fox examined the issue with attention to detail which would have done credit to the Court of Chancery.²¹ He was critical of court costs, which were so high people were deterred from prosecuting for petty theft; and acknowledged the risk of injustice where the public had access to lower court hearings of cases afterwards sent for trial by jury.²²

R.D. Hanson and the Colonist provided the indispensable foil for Fox. He could be pointed up as a legal ignoramus and always be relied on to make a reply which would feed the controversy and supply copy for a few more issues. The most enduring debates concerned the future of

19. Sec. NZC to Fox, 7 Feb 1849, enclosing J. Halcombe to Sec. NZC 19 Jan 1849, NZC PA/19.

20. NZGWS, 7 Jan, 25 Feb 1843.

21. NZGWS, 25, 28 Jan, 1 Feb 1843.

22. NZGWS, 24 Dec 1842, 14 Jan, 22 Feb 1843.

the Wellington Municipal Council after the disallowance of the ordinance under which it was set up,²³ and the status of juries where no Crown titles to land existed.²⁴ These arguments went on for weeks.²⁵ Their limited appeal was appreciated by Fox, who remarked that readers of both papers must wish Hanson, him, and their law "at the d--l".²⁶ The banter was generally good natured, Fox pretending not to know who the editor of the Colonist was, except that he clearly was no lawyer.

From the evidence of the paper itself, Fox seems to have left the Gazette after the issue of March 22nd, probably to prepare for the opening of the Supreme Court session. When Judge Martin arrived on March 27th,²⁷ however, Fox got a rude shock. He was told that the declaration he made before the county judge the previous November was unacceptable and that Martin intended to conduct his own examination, and exact his own oath, before Fox was admitted to practice at the New Zealand bar.²⁸ Although this procedure was new in Wellington it had been followed on two occasions in Auckland and there is no reason to believe Martin had any objection to Fox personally. Fox, however, thought the judge's conduct arbitrary and uncalled for.²⁹ He resumed the Gazette in a bad temper on April 1st, and the long argument with the Colonist over the status of juries suddenly took a more bitter turn.

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23. Sess. II, No. 6; A.H. McLintock, Crown Colony Government in New Zealand, p. 134. Fox urged that it stay in being until the Supreme Court could make a ruling as to dissolve would be to lose the liberties Wellington had got for itself. NZGWS, 10 Dec 1842.
24. The Jury Ordinance, 1841, Sess. II, No. 3, imposed a property qualification of freehold land.
25. NZGWS, 10 Dec 1842, 1, 8, 15, 22 Mar, 1 Apr 1843.
26. NZGWS, 18 Mar 1843.
27. NZGWS, 29 Mar 1843.
28. NZGWS, 30 Aug 1843.
29. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

The Colonist, Fox remarked, had been "indulging his appetite with a Maid of Honour" and had, since the judge's arrival become remarkably learned but "not, be it remembered in law, as regards Juries, but what apparently is to be substituted by his Honour the Judge for law until anything better can be concocted by our grave, potent, and venerable seniors, and Councillors at Auckland." This rancour was not inspired by Martins improvisation in the matter of juries, which followed along the lines Fox himself had been urging,³⁰ but by his stand on entry to the bar. In another part of the paper Fox described how the profession disciplined its members and said that in a body consisting of some two thousand men it was impossible that there should not be some "black sheep".³¹ If this was a bow to the vigilance of the judge it was hard to reconcile with the sarcasm about him making his own laws, and may rightly have been interpreted by Martin as a sneaking insinuation against himself.

The judge knew how to handle impertinent newspaper editors. Only a year before he had helped silence the anti-government New Zealand Herald.³² When Fox appeared before him in court Martin asked him to make a declaration that he had not "at any time before or since leaving England done any act whereby he should be precluded from practising as such Barrister-at-law". When Fox began to protest at this,

30. Fox drew a distinction between "legal" and "equitable" freehold and said purchasers from the New Zealand Company possessed the latter. Martin seems to have agreed with this. NZGWS, 15, 22 Mar, 1 Apr 1843. In 1844 a new ordinance (Sess. III, No. 2) replaced the property qualification with one of residence and character.

31. NZGWS, 1 Apr 1843.

32. Meiklejohn, pp. 92-93, 98-99. But compare G. Lennard, Sir William Martin, pp. 39-41.

Martin stopped him. The court, he said, sat to try cases, not hear discussions. After further objections, Martin demanded: "Mr Fox, I request you to answer me categorically; will you, or will you not, make this declaration?" Fox replied that he would not make it because it was "derogatory to the character of the English bar to suppose such a declaration necessary". "Mr Fox, Mr Fox," the judge interrupted, "I request you will desist."³³ He did - for the moment. Martin ran the court, but Fox ran the Gazette.

He admitted in the paper that the judge had the power to make rules of court but held that such rules had to conform to positive principles of law. No legislature, he said, would pass a law which demanded in effect that a person swear, "That I have never in my whole life, done any act which, if known to a second party, would subject me to the consequences of any penal or criminal statute." And no judge could frame a rule whose content would be inadmissible in a statute, "because the authority to make Bye Laws cannot be construed to extend to making laws, exceeding in effect, the powers by which that liberty is granted."³⁴ Not only had the judge exceeded his authority but fallen short on common courtesy. It was an affront to a gentleman, said Fox, to require him to say in substance, "I am not the disreputable person you think it probable I may be". Furthermore, it was quite useless as the "man who would commit acts of such a nature as ought to prevent his practising at the bar would seldom hesitate to deny that he had committed them...." He thought that it

33. NZGWS, 5 Apr 1843.

34. NZGWS, 8 Apr 1843.

was far too loosely worded - what sort of acts were being denied by the declaration? The obscurity, he said, led to the inference "that it has been framed without the grave consideration which ought to precede the introduction of a practise so novel and unprecedented".³⁵

Martin did not deny any part of the Gazette account except the charge that he had, before the court opened, warned the sheriff to take Fox into custody should he have to commit him for contempt. He defended his declaration as intended to exclude undesirables. He said it had been made without objections by two barristers in Auckland, to which the Gazette replied that they had by not objecting "thrown the onus of doing so upon Mr. Fox."³⁶ This was the only occasion Fox allowed a suggestion that others who had made the declaration had failed their duty. He usually said they had no choice when the law was their sole living.³⁷ When A.P. Holroyd, who succeeded him as editor, submitted under protest to Martin's rule in August 1843, Fox bent backwards to avoid embarrassing him. He represented that his own objection was not to the content of the rule but to the fact that it had not yet been officially promulgated in April.³⁸ Friends tried to persuade him to make the declaration under protest, but he had objected that it "would amount to no more than giving what I conceived to be several good reasons for not doing that which I had just voluntarily done". He felt under no compulsion as long as he had the means of quitting New Zealand" and resorting to

35. NZGWS, 5 Apr 1843.

36. NZGWS, 8 Apr 1843.

37. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127; NZGWS, 5, 8 Apr 1843.

38. NZGWS, 30 Aug 1843.

some place where the character of the bar is regarded by the bench with the same respect as at home, and its members admitted to practice on the same terms...."³⁹

Hobart, he heard, needed a barrister.⁴⁰ But his first escape was to the Wairarapa with Charles Clifford, William Vavasour and Arthur Whitehead. They left late in April and returned in mid-May after an arduous journey Fox modestly described as "quite an adventure".⁴¹ He made two important discoveries. One was a valley of over a quarter-million acres "ready for the plough and spade this very day". The other, perhaps more important, was that he was a very strong man, equal to the worst the wilderness could offer. Buoyed by new hopes and buttressed by new confidence, he resolved to wait on in New Zealand until H.S. Chapman arrived to take up the judgeship of the southern settlements. Perhaps Chapman would persuade the Chief Justice to relent.⁴² The directors of the New Zealand Company held out the same hope to Fox when he appealed to them for support. They were not willing to intercede for him themselves.⁴³ The Colonial Office also received a barrage from Fox, who, ignorant of procedure, fired it at them direct instead of through the New Zealand government. He was told he would have to write again through the proper channels, but by the time the slow mails brought him this message in July 1844 he was able to inform the Colonial Office that "the obnoxious declaration has been abrogated and an unobjectionable one substituted, which

39. NZGWS, 5 Apr 1843.

40. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

41. Ibid. For full account, see below pp.132-5.

42. Ibid.

43. Fox to Directors NZC, 8 Apr 1843, CO 208/127; Sec NZC to Fox, 20 Oct 1843, NZC 102/4.

renders the matter of no further consequence."⁴⁴ Chapman, on arrival, at once abolished the declaration in his courts.⁴⁵ Fox was vindicated on a more impressive level when the second Supreme Court Ordinance⁴⁶ superseded the first, for although the judge retained the power to make rules of court these rules were now subject to the governor's approval. Fox, therefore, had a case. He was certainly disappointed in New Zealand and very lightly attached to it, as he readily admitted. A dramatic martyrdom at the hands of the Chief Justice would allow a retreat with dignity, otherwise difficult for the author of a tract like Colonization and New Zealand. But he did not go.

The consequences of exclusion were too serious for his defiance of Martin to have been a mere stunt; nevertheless, Fox always had a keen eye for the gallery. His performance had done him no injury locally, except to make appointment to a government law office unlikely, and if he could ride out the interval until Chapman arrived he would probably gain from it. Jerningham Wakefield said Fox's "honourable conduct gave him at once the highest title; and he was soon considered one of themselves". He was, Wakefield thought, "a gentleman fit in every way to practice in the Court".⁴⁷ He certainly had the qualities of a successful barrister.

44. Fox sent off letters on 8th and 15th April and again in August 1843. Fox to Lord Stanley, 8 Jul 1844, GBPP, 1845, No. 369, p.46.

45. E.J. Wakefield, ii, 420.

46. Sess. III, No. 1.

47. E.J. Wakefield, ii, 419-20.

His Gazette articles show the wit and eloquence, the sense of drama, and the right mixture of clarity and obscurity by which a jury could be swayed. Although his classical and legal education had left him few traces of originality, it had imparted a sense of form so that with the ideas provided by the law books he could build impressively clever and compelling arguments. In the halls of justice he might have found, too, that grandeur and sense of cause which his brother Henry found among the Telugus and which Fox himself sought finally in a Quixotic and desperately hopeless tilt against the brewing barons. His exclusion is, therefore, a turning-point in his life, a diversion of its expected course. By 1868 when he eventually entered the bar,⁴⁸ he had used his legal talents in so many sham battles that he scarcely knew himself when he believed his own arguments.

* * * * *

Fox's clash with Martin did nothing to endear him to the Auckland government, which Company propaganda had already taught him to regard as the tool of missionary influence. In analysing for the benefit of Edward Gibbon Wakefield the ailments which beset his colony, Fox said there was only one: "unsettlement of the Native claims". Delay in the surveys, lack of roads, the commercial character of the

48. He was admitted on 9 Mar 1868. From the records of the N.Z. Law Society and Supreme Court, Wellington (Courtesy of the Secretary, N.Z. Law Society).

town, were nothing compared with this one great incubus. "It is truly lamentable," he said, "to see such an undertaking, the success of which was all but certain if left to itself, so thwarted and obstructed as it has been - through no cause but sheer pique and incompetency." He hoped the new governor might bring change, "yet I fear there is a crisis at hand which will greatly try the settlement".⁴⁹ The crisis came before the month was out - about sunrise on Saturday, 17 June, when a police party from Nelson attempted to arrest the conquering Maori chief, Te Rauparaha, on a charge of arson.

49. Fox to E.G. Wakefield, 6 Jun 1843, CO 208/127.

CHAPTER 3.AFTER WAIRAU

First news of the fighting reached Wellington by the brig "Victoria" on the evening of Sunday, June 18th. A committee of public safety was formed at a noisy meeting the following afternoon. The Gazette, now edited by the radical George White, criticised the attitude of the settlers and the inflammatory remarks made at the meeting; it referred to the Company's "assumed possessions" and said the Maoris had acted with a forebearance "which it would be no disgrace to us, as Englishmen, to imitate". At that time it was thought only three Europeans and four Maoris had been killed.¹

On the evening of Tuesday, June 27th, the brig returned from a second trip to the Wairau. From the composition of the paper it seems White was at the time setting up the Gazette for publication the following morning. The early columns declined to notice the rumours that Captain Wakefield and the Nelson police magistrate, Henry Thompson, were dead, and advised the settlers to do the same until more facts were available. The last column, however, contained the "Latest Intelligence", which was that the news by the brig confirmed the rumours and that nineteen settlers were dead and four missing. Still White was reassuring about the safety of Wellington; he said Thompson's attempt to arrest Te Rauparaha had been "indiscreet". At that point he was abruptly,

1. NZGWS, 21 Jun 1843.

perhaps forcibly, removed from control. Two horizontal bars across the column indicated a complete break with what had gone before and the last one-third of a column, under the heading "Contradictions", was devoted to an anonymous, hysterical attack on the Maoris and their defenders.² On July 1st, Fox was back in the chair.³

* * * * *

Fox was used to riding in the turbulent republican wake of George White, who as early as December 1842 had been writing for the Gazette articles which scythed through the crowned heads of Europe, condemned the plundering church, and derided the "lordly aristocracy of the soil".⁴ As on earlier occasions, Fox went out of his way to avoid repudiating what his colleague had written; once he admitted to a possible lack of perspicuity and another time escaped by the ambiguous remark that he could "disclaim the merit".⁵ When he agreed with White he gave him generous support, as in his praise for the United States of America as the "greatest Empire in the world";⁶ otherwise he quietly narrowed the attack on the aristocracy to the Tories, especially Peel and Stanley, and the attack on the church to the "High Church".⁷

Respect for another man's opinions does not adequately explain Fox's tolerance. It is possible White had secured a financial interest in the paper, which was always in need of fresh capital injections

2. NZGWS, 28 Jun 1843.

3. NZGWS, 6 Sep 1843.

4. NZGWS, 31 Dec 1842, 15, 26 Apr, 10, 13, 17, 20, 24, 27 May, 3 Jun 1843. It was the appearance of these radical articles during the time Fox was said to be editor of the Gazette which made it necessary to determine their authorship.

5. NZGWS, 7 Jan, 17 Jun 1843.

6. and 7. see next page.

and never attractive enough an investment to be choosy about where they came from. Colonel Wakefield moaned that the Gazette had "fallen into the hands of a low radical"⁸ during April, May and June. This was the summit of White's journalistic career; he applauded the Treaty of Waitangi, denounced the New Zealand Company as a fraud perpetrated in England by a set known as the "forty thieves", and capped the performance with his stout defence of the Maoris after the Wairau.⁹ He was thrust out at the end of June but, for reasons that are none too clear, it was nearly the end of July before Fox publicly repudiated him. He wrote on July 22nd that the Gazette had been

afflicted for several months with an unhappy impediment in our speech, which both prevented us from speaking out and rendered what little we did say not very intelligible.

The impediment was now gone, he hoped for good.¹⁰ White was not mentioned by name, but he was at this time sent to Nelson to act as temporary police magistrate.¹¹ If he had exercised some financial control over the Gazette it is remotely possible Fox at this time bought him out.¹²

White was probably not the only impediment in Fox's speech. When he resumed the Gazette on July 1st it was to revive his stale old fight

6. NZGWS, 14 Jun 1843.

7. NZGWS, 14 Jan, 14 Jun, 6 Sep 1843.

8. VW to Sec. NZC, 15 Jun 1843, CO 208/127.

9. NZGWS, 24 May, 3, 7, 21, 28 Jun 1843.

10. NZGWS, 22 Jul 1843.

11. Where the settlers rejected him, Exam, 29 Jul 1843.

12. B.J. Foster in Encyclopedia of N.Z., iii, 69, says Fox bought out Revans' interest. This is not correct; Revans was the proprietor when the paper folded. If Fox bought an interest, for which I have seen no evidence, it may have been George White's.

with Judge Martin who by his refusal to issue a warrant for the arrest of Te Rangihaeata in October 1843 had, said Fox, invited the Wairau calamity. On July 8th he responded to the local crisis with an iron-clad academic article on imperial taxation.¹³ He still had one eye on Hobart¹⁴ and did not want to jeopardize his chances there by using intemperate language in Wellington. By July 12th, however, he was identifying more with the local settlers, urging them to begin agitation; by the end of the month he was weaned for ever from learned articles on the law and prepared to give the fighting leadership for which the settlers were waiting. It did not matter particularly who was attacked as long as the pall of utter frustration was lifted; but there was little doubt that the government was to be the beneficiary of Fox's promise "to make up for lost time by an immediate settlement of all debts due from us".¹⁵ White, who was town clerk, had been a barrier to attacks on the local officials, reserving his venom for those nearer the Queen. Now the barrier was gone, and Fox stormed through. Hanson, Major Richmond and police magistrate MacDonough were mercilessly pilloried, and the sins of ex-magistrate Michael Murphy were dredged up as an example of the qualifications the government sought in its officers.¹⁶ Hanson wilted, the Colonist expired, and Fox had the stage to himself. The officials witlessly kept indignation at white heat by disbanding the volunteer force which was formed after the Wairau and describing it as "unlawfully assembled";¹⁷ then Hanson backed out of this

13. NZGWS, 1, 8 Jul 1843.

14. WW to Sec. NZC, 30 Jun 1843, NZC 3/13.

15. NZGWS, 22 Jul 1843.

16. NZGWS, 22 Jul - 6 Sep 1843, passim.

17. Proclamation by Major Richmond, 26 Jul 1843, NZC 12th Report, App. H, p.53.

blunder into another by explaining that "unlawfully" had been used inadvertently.¹⁸ Fox shrewdly concentrated on these minor points, where he had the officials at fault; but he had no doubts, then or afterwards, about the justice of the settlers' larger case.

The description, in an official proclamation, of the Wairau fighting as "A contest between a party of armed settlers from Nelson and a body of natives"¹⁹ was an affront to sensibility when it became known that the contest concluded with the tomahawking of twelve prisoners.²⁰ It was a euphemism, cried Fox, which "we should have expected from Rangihaeata himself or from someone who never trod on British soil or sucked the breast of British mother". Then in a burst of indignation which exactly caught the desperation of the settlers who mouldered on the perimeter of the sea while only the tussock moved in the empty Wairau, he demanded

Whether a nation barely reclaimed, if reclaimed, from cannibalism, without any settled form of Government, addicted to all the vices of savage life, ignorant almost of the use of clothing, and in no respect acquainted with even the elements of civilization, could be said either according to the law of nations or of common sense to possess rights of property in land on which they never trod except to indulge in their pastime of war, or in travelling in one of their unsettled homes to another, may very reasonably be doubted.²¹

When Fox was agitated he wrote with great intensity, holding his breath during each sentence, then grunting it out as he proceeded.²²

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18. Hanson to editor NZGWS, 29 Jul 1843. The volunteers had been formed in accordance with law, I. Wards, The Shadow of the Land, p.82.
 19. Proclamation by Police Magistrate A.E. MacDonough, 26 Jun 1843, NZC 12th Report App. H, pp. 18 - 19.
 20. R. Allan, Nelson, A History of Early Settlement, p. 260.
 21. NZGWS, 9 Aug 1843.
 22. Saxton, Diary, 28 Sep 1847.

He grunted mightily at Shortland's assurance that the case of the Wairau would not be prejudged.²³

- already has the Government prejudged the case; the Chief Protector has prejudged the case; the Police Magistrate of Wellington has prejudged the case; every document, every cold-blooded proclamation put forward by Government has prejudged the case

And from this he launched into a passionate peroration:

Give these men some other name than Britons; call them Shouraki men, the friends of the Aborigines if they please (though that is a mockery,) but never let them imagine that they will be regarded as other than the worst enemies of the settlers in Cook's Straits: men who would weigh the memory of the dead against a legal quibble, and think that wounds like ours are to be solved by a Proclamation.²⁴

Fox assembled material relevant to the Wairau in a twenty-eight column supplement to the Gazette which he published early in September 1843 and sent to the Colonial Office. He wisely constructed his account entirely from affidavits, minutes of meetings and official correspondence, reserving any direct comment for an introductory letter from himself to Lord Stanley. In this letter he cited as the chief cause of the present discontent and the "recent calamity" the continued non-settlement of the land claims; the prejudices of the missionaries against the settlers and the missionary influence on the Protectors of Aborigines; the distance of Auckland from Wellington and the parasitic character of the Auckland government; the incompetence of

23. Colonial Secretary to D. Munro and A. Domett, 9 Aug 1843, NZC 12th Report, App. H, p. 61.

24. NZGWS, 2 Sep 1843. The proclamation was that of 12 Jul 1843 in which Shortland warned against the occupation of land subject to dispute, NZC 12th Report, App. H, pp. 26 - 27.

the local government and the autocratic nature of the constitution which made redress impossible for the citizen.²⁵ All this, assembled in one succinct letter, comprises the classic New Zealand Company case against the government.

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Missionary influence at the Colonial Office was an old Wakefield bogey which Fox himself had helped perpetuate.²⁶ His remarks in the letter to Lord Stanley were a precis of an earlier Gazette article in which he said that men went into the church either to do good, dominate minds or make a profit; and from these motives he deduced with nice symmetry, that missionary opposition to colonisation arose from a desire either to protect the Maoris from viscious European influences, dominate them in a theocracy or exclude others from a share in the profits of mission trade. Opposition led to their estrangment from the settlers and consequent increased intimacy with the Maoris, which in turn influenced the Maoris to regard the settlers as "some leprous tribe". How much better, said Fox, if the missionaries had used their influence to bring the two races together:

If they had said to the Maories, these are our brethren, who will instruct you in useful arts, employ you for mutual advantage, and confer on you the benefits of civilization; and if they had said to the white man, these are our children new born in the ways of the civilized world, be gentle, be kind, be considerate to them - how different a feeling might at this moment have existed between us²⁷

25. NZGWS, 2 Sep 1843.

26. Fox, Colonization and N.Z., p.7.

27. NZGWS, 15 Jul 1843.

At his most generous, Fox offered this dependency relationship of patron and client, teacher and child. If the Maoris paid attention and really set about civilising themselves they could enter into the new order, perhaps even buy more land to add to the one-eleventh left them by the benevolent Company.²⁸ But he had no mission to civilise them; whatever inspired his brother Henry, William's evangelism was not directed at snatching the natives from perfidy but planting a superior race and culture in the wilderness through which they filtered like shadows from the past. As far as he was concerned, the Maoris were in a one-way European street; they could either travel along it or get run over. He did not take the trouble to learn much about them; their language and customs he did not understand,²⁹ and on the culture generally he made no more comment than was warranted by the obscene sculpture of a "nation of helots".³⁰

Cultural arrogance of this sort was entirely conventional; Fox found it justified by the Maoris own "dread of our superior intelligence".³¹ In the circumstances it was nonsense to approach them as equals. The Treaty of Waitangi he condemned as

"shallow, flimsy sophistry by which, under the assumed garb of Christian philanthropy, they have attempted to raise the unlettered savage into a civilized being. They appear to have entertained the Quixotic idea of exhibiting to the world the possibility of giving a literal interpretation and practical illustration to the figurative expression that, all mankind are of one family".³²

28. NZGWS, 23 Aug 1843; Marais, p. 59.

29. F.D. Bell to Harington, 28 Feb 1849, CO 208/127.

30. Fox, The Six Colonies of New Zealand, pp. 56, 69.

31. NZGWS, 23 Aug 1843.

32. NZGWS, 14 Jun 1843.

When he talked of equality it was not in the sense that one man was as good as another but that he could be if he shook off his ignorance, superstition and barbarity; equality, as Fox conceived it, meant everyone being much like Fox. The ideal was narrow, but he allowed all men to aspire towards it; Ceasar, he said, must have thought the German tribes unpromising material and he was not going to say the Maoris were any worse.³³ He was not affronted by miscegenation; that the Maoris might be absorbed by marriage fitted in with his belief that the fair northerners would take over the land.³⁴ To Colonel Wakefield's dismissal of a native-based grain trade as not only absurd but in a sense indecent, Fox replied that he could not see that grain grown by the Maoris was any different to that grown by Europeans.³⁵ Such a trade, indeed, offered the Maoris the one chance to save themselves.

Fox felt their only hope was to become civilised, by which he meant Europeanised. George Grey later held the same opinion, but Fox quarrelled with the governor as to how Europeanisation should be achieved. He thought Grey's Maori schools and other special institutions perpetuated the segregation of the mission stations; the government, he said, should not interfere at all except to administer the law impartially to both races;³⁶ in 1866 he argued that it was unnecessary interference by the government which led to the Maori Wars.³⁷

33. NZGWS, 5 Aug 1843.

34. Ibid.

35. Saxton, Diary, 18 Sep 1845, 16 May 1846.

36. Fox to Sec. NZC, 11 Dec 1849, NZC 3/10.

37. W. Fox, The War in New Zealand, 1866, p.261.

He employed the new science of statistics to "prove" from the larger acreage of Maori land under the plough at Motueka that the Maoris there, who were in frequent contact with the settlers, were more civilised than the bible-readers on the mission station at Waikanae;³⁸ from the settlers the Maoris got a taste for goods and an example of the hard work and organisation needed to acquire them. Underlying the barbarity of the Maoris was their "communistic and vicious social economy".³⁹ Once a desire for goods was created, the natural drive towards fulfillment of wants would come into operation and, if the Maoris used reason to attain their ends, division of labour would be introduced and civilisation follow.⁴⁰ Thus, by second-hand classical economics, was the native society to be transformed. Clearly, a lot depended on the Maoris themselves. If they failed to use reason then the alternative was extinction.

Fox told his readers in 1843 that whether New Zealand was "fated to prove an exception to the rule, that the foot of the white man treads out the life of the coloured yet remains to be proved".⁴¹ Subsequently he became convinced the Maori would not survive. When he first visited Port Cooper in December 1848 he was remarkably unresponsive to the empty landscape and unusually busy making drawings of Maoris in full face and profile,⁴² as if the broken state of the Ngai-tahu⁴³ had shocked him into

38. Fox, Six Colonies, p. 79.

39. Fox, War in N.Z., 1866, p. 258.

40. NZGWS, 11 Jan 1843.

41. NZGWS, 5 Aug 1843.

42. Torlesse Papers, plates 5, 13. Nicholas Chevalier made charcoal drawings of Maori features from Fox sketches which are now lost. Fox apparently made some of these sketches during the 1848 visit to Canterbury; compare the white-haired figure in a "Group of Maoris, Port Cooper Plains, December 1848" J. Hight and C.R. Straubel, A History of Canterbury vol. I, plate 2 (Original, Hocken Library) with the first of Chevalier's "Contemporaries of Captain Cook",
Cont'd next page -

the realisation that soon these people would be gone for ever and it was for him to make a record of how they looked. In 1851 he gave the Maoris fifty years;⁴⁴ in 1866 said their extinction "in an exceedingly brief period is as certain as anything human can be".⁴⁵ This too was a conventional view. It justified a laissez faire native policy and did away with the need to provide Maoris with political rights,⁴⁶ but is perhaps too readily interpreted as mere wishful thinking by land-hungry settlers;⁴⁷ after all, the whole defence raised around the Maoris by the philanthropists implied that they would be destroyed by European colonisation, which thus had to be limited. To men like Fox this was unrealistic: there was no stopping the flood; the Maoris would have to fare as best they could.

His attitude towards them was subordinated to a romantic conception of colonisation as Man moving out into the wilderness to pluck the fruits of creation. Ethnocentricity identified this Man with the European, whose superior intelligence and social order made him, wherever he went, master over land and people. He was never cowed by nature, as the Maoris were cowed, but was conscious of infinite possibilities and full of boundless aspirations. The victory over their unpromising environment of Robinson Crusoe on Juan Fernandez or Thomas Brunner on the West Coast of New Zealand expressed both the rapport with and the command over nature which Fox experienced on his exploring journeys and captured in his best paintings.⁴⁸ The

42. Cont'd:- Wards, following page 40, (Original, National Art Gallery Collection.)

43. Hight and Straubel, p.31.

44. Fox, Six Colonies, p.54.

45. Fox, War in N.Z., 1866, p.256.

46. Settlers' Constitutional Association Committee Report, adopted at a public meeting, Wellington, 3 Feb 1851, GBPP, 1851, No. 1420, pp. 161-5.

47. E.g., J. Miller, p.104.

48. See below, pp.143-54.

Maoris had no such rapport with nature; they went in superstitious fear, and instead of commanding were themselves driven about by the need to catch food or find soil they had not yet exhausted. They could continue in this wasteful way only because they had so much land. Defending the confiscations under the Land Settlement Act of 1863, Fox said "nothing has been or can be more pernicious to the native race than the possession of large territories, under tribal title...."⁴⁹ To relieve them of it was to do them a service.⁵⁰ The Maoris had done nothing to develop the resources of their Eden, and in their present ignorance and barbarity were but part of the wilderness. Should they be so ill-advised as to try to hold off the surge of European colonisation then they, like the wilderness, would be rolled back before it.⁵¹

That the land should pass to those who could use it he believed the more ardently when the area in question was empty; that Waitangi vested in Maori hands unoccupied tracts like the Wairau made the Treaty so much more nonsense in his eyes. It was not necessary to purchase such waste land; the plodding judicial inquiry of William Spain to see whether it had been validly purchased was therefore an annoying irrelevance. Fox's remarks about Spain⁵² led to a suit against him in the Supreme Court at Nelson. Fox made a public apology and shook hands with the commissioner as he was usually ready to do once the heat

49. Fox to Lord Chichester, 5 May 1864, AJHR, 1864, No. 4, p. 18, quoted in B.J. Dalton, War and Politics in New Zealand 1855-1870, p.190.

50. Fox, War in N.Z., 1866, p. 260.

51. NZGWS, 23 Aug 1843.

52. Fox said he drew the pay of three commissioners, and that he was responsible for the delay in deciding the land claims and, therefore, for the Wairau deaths, NZGWS, 26 Jul 1843.

of battle had cooled; he said the excitement after the Wairau had made them "not so considerate in the use of their weapons as they might have been".⁵³ The animosity was revived, however, by the exclusion of the Wairau from Spain's judgement on the Nelson claims.⁵⁴ Fox and Colonel Wakefield maintained that the commissioner said he could not examine the issue because the party at Kapiti had not been warned;⁵⁵ Spain himself did not deny this version, but in his Report expressed surprise that the Company's agents had passed over the matter without offering any evidence.⁵⁶ Both parties contradicted themselves⁵⁷ and nothing is clear except that Fox thought an inquiry into the ownership of empty tracts like the Wairau was little short of absurd. He startled Governor Grey one day by proposing that the Wairau be declared "Waste of the Crown (which it most decidedly is to all intents and purposes)" and the settlers simply move in. The Wairarapa, where less than three hundred Maoris roamed over 350,000 acres, should be similarly dealt with. If, necessary, Fox added, troops should go in with the settlers and secure possession.⁵⁸

That was the way he would colonise the wilderness. That it might involve a fight he accepted from the start,⁵⁹ and not without a little relish. He preferred peace to war, he said, but it was not

53. Exam, 29 Jun, 12 Oct 1844.

54. Commissioner Spain's Report (Nelson), 31 Mar 1845, GBPP, No. 203, pp. 35-44.

55. Fox to WW, 11 May 1846, NZC 104/4; WW to Fox, 5 Jun 1846, NZC 203/5.

56. Exam, 31 Aug 1844; Spain to Colonial Secretary, 28 Sep 1846, NZC 3/17; Spain, Report (Nelson), 31 Mar 1845, GBPP, No. 203, pp. 35-44.

57. Throughout the above correspondence. See also Saxton, Diary, 17 Apr 1845 cf. Fox to WW, 11 May 1846, NZC 3/16.

58. Fox to Harington, 23 Jun 1847, CO 208/127.

59. NZGWS, 21 Jan 1843.

to be secured by following the "tortuous paths and skulking byeways, which avoid the ruggedness of the straight course...."⁶⁰ It was in the knowledge of having fought a good fight that peace came to the bold adventurers who pitched their tents in the south seas in the "spirited enterprise of founding New England in New Zealand".⁶¹ Fox was a romantic; not in a Rousseauian sense, or with regard to the Maoris, about whom he developed no particular attitude, but in the way that Daniel Boone was a romantic in his struggles to possess Kentucky. The struggle was as least as important as the possession. And the struggle was precisely what honest, dull people like William Spain were denying him.

Over this subjectivist self-assertion, however, Oxford and the Inns of Court had laid a classical gridiron of deductive logic, and it was with this equipment that the public man invariably performed. He could reduce the whole question of the Wairau (which he never for a moment doubted that the Europeans would occupy) to a fine point of law concerning warrants for arrest and make it look as though everything depended on his arguments.⁶² Many of his public utterances are at best only a pale reflection of his real feelings; they thus lack both originality and consistency. Dalton's comment that his "arguments seldom carried the conviction of his sincerity" is very true; but that he was therefore "shallow in conviction"⁶³ is far from being so. He was convinced, for one thing, that the Europeans

60. NZGWS, 15 Jul 1843.

61. NZGWS, 4 Mar 1843.

62. Fox, Report on Governor Fitzroy's visit to Nelson, Feb 1844, GBPP, 1844, No. 556, p. 423.

63. Op. cit., p. 132.

would take over the land. He rationalised the conquest in various ways, from the vices that were destroying the Maoris, according to best "scientific" authority which he quoted,⁶⁴ to the laws of classical economy which decreed a sort of free-trade in peoples and survival of the fittest.⁶⁵ But at the bottom lay his own spirit of adventure, rapport with nature and sense of power. He was a fit man to inherit the wilderness. There is no contradiction between the painter of gentle landscapes and the Fox of the confiscations.

* * * * *

The right to the land was based on the capacity to use it, and it was use which gave the land its only value.⁶⁶ Fox agreed that the Maoris had a moral and legal right to such land as they needed and described the New Zealand Company native reservations of one-eleventh the total acreage as

a merciful and humane departure from the rough course which migratory civilization (has) usually pursued towards those who stood in the way of advancement.⁶⁷

Whether the Maoris received sufficient payment for the land they sold to the company he did not profess to know; he agreed it was the duty of the British government to see that lands which the Maoris needed for subsistence were not taken from them without due recompense, and urged the Company's agent to come forward in "a manly and liberal way" to pay any extra that was necessary to give the settlers possession.⁶⁸

64. Fox, War in N.Z., 1866, pp. 258-9.

65. NZGWS, 23 Aug 1843.

66. Fox, War in N.Z., 1866, pp. 15-16.

67. NZGWS, 23 Aug 1843.

68. NZGWS, 5 Aug 1843.

So although he was more firmly aligned with the Company than he had been in his first period as editor, Fox was a long way from licking the colonel's boots in the manner of J.T. Wicksteed. When the Colonist charged that he was a Company hack he declared he had taken office on "the most distinct understanding" that he was to be independent. He claimed to edit a settlers' paper,⁶⁹ and there was a good deal of truth in this claim. The cry of one settler at a meeting that, "After coming three thousand miles to a foreign land we are told we have no title...."⁷⁰ was the cry of all; the title withheld was the land withheld, the promised prosperity withheld; all the bitterness and insecurity, frustration, despondency and plain loneliness welled up after the Wairau. At public meetings the speakers orated like revivalist preachers; like haka-dancing Maori leaders they orchestrated the groans, sighs, jeers and cheers of the demoralised settlers into a chorus of defiance and determination. Fox did much the same thing in the Gazette. His rhetoric rode the tension; like a man on a wild horse he excited it as he himself was excited by it:

Are we not Englishmen? Have we not the
heads and hearts of Englishmen, their cou-
rage, their skill, their enterprize, their
integrity? Have we not all that an English-
man ought to have except his privileges?⁷¹

The privilege, especially, to govern themselves; he quickly raised the

69. NZGWS, 22 Jul 1843.

70. NZGWS, 12 Aug 1843.

71. NZGWS, 26 Jul 1843.

debate from the right of the Company to possess the Wairau to the right of every man to a say in his own government. On this level there could be few dissenters. In the panegyric he wrote on himself for his last issue of the Gazette, he described his journalism as "the defence of the rights of the people against the aggressions of those who would injure them".⁷²

The demagogue was never far below the surface in Fox.⁷³ In Wellington after the Wairau there were no restraints on him. Outrageous overstatement and sarcastic understatement tumbled out in a complex tangle of clauses and sub-clauses. Sometimes his passion swept away his punctuation, but generally the control was good, the meaning clear and the impact powerful.

The settlers rewarded their orator with a place of modest honour. He was too light a celebrity to number among the Committee of Public Safety when it was first set up on June 19th, but was later co-opted on to it, and in August elected to a special four-man sub-committee.⁷⁴

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Fox's rise to prominence among the settlers made him an attractive candidate for the Nelson agency of the New Zealand Company. As early as June his name had been rumoured as a possible successor to Captain Wakefield, but the Examiner thought Frederick Tuckett would fill the post until the directors' wishes were known. They had heard

72. NZGWS, 6 Sep 1843.

73. See A. Cox, Recollections....., p. 244.

74. NZGWS, 21 Jun, 12 Aug 1843.

Fox spoken very highly of, the paper said, but "whether he is qualified to fill so important an office we are unable to say".⁷⁵ Fox himself may have had doubts for at this time he turned down the agency.⁷⁶ If, as Turnbull says, such appointments were made on the basis of family friendship or service to the Company,⁷⁷ the obvious choice was Francis Dillon Bell, cousin to the Wakefields and former acting-secretary of the Company; but Bell only ranked among several other candidates,⁷⁸ including Dr. J.D. Greenwood, who was suggested by a few Nelson settlers,⁷⁹ Dr. David Monro, who was suggested by Tuckett,⁸⁰ and Joseph Greaves, who was suggested by himself.⁸¹ On Sam Revans' admission, the Colonel was a good judge of men;⁸² if he had erred in sending Wicksteed to New Plymouth he had discovered his mistake by the time Nelson became vacant.⁸³ The gap to be filled was very great; Captain Wakefield had been on the whole a popular leader, and the circumstances of his death had enlarged the merits of his life.⁸⁴ The whole settlement had been decapitated at the Wairau. Morale was at a low ebb, lowest of all among the Company's labourers, who were becoming dangerously restless. Colonel Wakefield was in Nelson for most of August⁸⁵ and saw plenty of evidence that fitness for the post should be his first consideration;⁸⁶ Tuckett was growing hysterical in his

75. Exam, 15 Jul 1843.

76. VW to Sec. NZC 30 Jun 1843, NZC 3/13.

77. Turnbull, Colonisation of N.Z., p.32.

78. Saxton, Diary, 27 Sep 1845.

79. J.D. Greenwood to Mrs Field, 20 Oct 1843, Greenwood Letters; Saxton, Diary, 16 Sep 1845.

80. Tuckett to VW, 25 Jul 1843, NZC 104/3.

81. Tuckett to VW, 30 Aug 1843, NZC 104/3.

82. Revans to Chapman, 15 May 1840, Revans Letters.

83. VW to Sec NZC, 31 Mar 1843, NZC 3/2.

84. Allan, Nelson, pp. 261-3.

85. He left Wellington July 26th and returned August 22nd, VW to Sec NZC, 24 Jul 1843, NZC 12th Report, App. H, p. 86; NZGWS, 23 Aug Cont'd next page:

clamour to be relieved. He told the Colonel that "your Mr. Fox if he deserves his reputation would perhaps do...."⁸⁷ This time, perhaps more confident after the success of his journalism during July and August, Fox accepted. On September 4th he entered the service of the New Zealand Company with a salary of £500 per annum, reduced temporarily to £300;⁸⁸ on the 6th he signed off as editor of the Gazette.

The "Sisters" was due to sail for Nelson next day; but nearly a week passed before she finally got under way.⁸⁹ Flanked by Alfred Domett and David Munro, the accredited Nelson leaders who were returning from Auckland where they had laid the settlers' grievances before the government,⁹⁰ the Foxes set off for a strange settlement of three thousand people⁹¹ sunk in "grief, anger, fear, depression and insecurity",⁹² over whom he was to act as a sort of lieutenant-governor. He inherited an official establishment greater than that of the government.⁹³

85. Cont'd: - 1843.

86. Exam, 15 Jul 1843.

87. Tuckett to WW, 25 Jul, 31 Aug 1843, NZC 104/3.

88. WW to Sec. NZC, 12 Sep 1843, GBPP, 1844, No. 556, App., p.720; Sec. NZC to WW, 11 Sep 1845, NZC 102/5; Sec. NZC to WW, 14 May 1847, NZC 102/7.

89. NZG.S, 6, 13 Sep 1843.

90. Exam, 16 Sep 1843.

91. E.J. Wakefield, ii, 544.

92. Allan, Nelson, p. 269.

93. His establishment consisted of an accountant, 2 clerks, 2 storekeepers, a blacksmith, a medical officer, a nurse, 2 superintendents of labour, overseer of Company timber, inspector of cultivations, 2 boatmen plus a survey staff of about 8. From the monthly estimates in NZC 104/3. The government establishment was a judge, prosecutor, clerk, coroner; sub-collector of customs, pilot, tide-surveyor, cox, 3 boatmen; police magistrate, constable, 3 police privates; sheriff, goaler. Several of these offices were held by one person. Fitzroy to Ld Stanley, 15 Jan 1844, enclosing estimates of expenditure, 1844, GBPP, 1845, No. 131, pp. 7-10.

He was to have almost exclusive control of defence; was to be the channel through which relief reached the unemployed, pensions reached the bereaved and wounded, loans reached the enterprising and unfortunate. He was to decide the priorities of public works and direct the exploration of the hinterland.⁹⁴ He was to disburse more money in a month than the government spent in a year;⁹⁵ his revenues were fiscal in nature, deriving from the high land price of £1. 10s. per acre, which amounted to a tax on the unearned increment paid in advance for benefits to follow from systematic colonisation. He was to be the manager of the Company estate of 115,374 acres.⁹⁶ He was thirty-one years old, without executive experience, and miserable with influenza.

94. See following chapters.

95. Fox's estimate for October 1843 was £1874, Fox to WW, 25 Sep 1843, NZC 104/3. Fitzroy's estimate for all of 1844 was £1688, Fitzroy to Ld Stanley, 15 Jan 1844, GBPP, 1845, No. 131, pp. 7-10.

96. Consisting of 474 unsold allotments and the 100 reserved to the Company.



William Fox

WILLIAM FOX about the 1850's

CHAPTER 4.THE PLEASURES OF POWER.

The Nelson settlers assembled after dinner on 26 September 1843 to watch the new agent perform for the first time in public. The crowd overflowed the Court House so the meeting was held outside; the Examiner which had been telling its readers how fortunate they were to have a man of Fox's calibre among them, acknowledged it was the largest ever seen in Nelson.¹

It must have been something of an anti-climax when in response to loud calls, William Fox came forward. He was a small man, with a long head vanishing upwards into a tall, rusty, black hat. Lank fair hair fell from the hat to sandy mutton-chop whiskers, linked tenuously across the upper lip by an untidy moustache. With his sharp aquiline nose and tight mouth he looked to one spectator "mean in appearance and thin in person".² Fox was responsive to the mood of an audience; his first remark was to express regret that "his appearance must create disappointment".³

The meeting had been called to organise defence against a rumoured attack by Maoris, but people were clearly just as alarmed by the behaviour of the Company's labourers. A committee of public safety, Fox as chairman, was elected to deal with the Maori threat, then enlarged to include six working-men. This demonstration of

1. Exam, 16, 30 Sep 1843; Saxton, Diary, 26 Sep 1843.

2. Saxton, Diary, 26 Sep 1843; Cox, p. 243.

3. Exam, 30 Sep 1843.

class solidarity was not approved by all, especially after the sheriff reported that some of the Company labourers who had been brought into town to build the fort had talked of it being an opportune moment to go on strike. Fox told the meeting that he was prepared to enter into any necessary expense for the defence of the settlement, whose welfare he would promote to the best of his ability - not forgetting the working class, whose interests were "most important".⁴ Uncertainty with regard to the Maoris and unrest among the labourers were thus woven together in a feeling of general insecurity.

Security was the business of government, which recognised that a reassuring military presence was wanted in Nelson but lacked the resources to provide it. The government excused itself by treating the labour unrest as a domestic problem of the New Zealand Company and the fear of Maoris as a fiction put about by the Company to get troops with which to intimidate the labourers.⁵ But the settlers were genuinely bewildered by what had happened already and uneasy as to what would happen next;⁶ the ramshackle government did nothing for them and its place was filled by the ramshackle Company and the unpromising-looking agent.

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The public meeting was a result of information received from

4. Ibid.

5. WW to Sec. NZC, 12 Dec 1843, NZC 3/13; Sir Everard Home to Shortland, 12 Nov 1843, GBPP, 1844, No.556, App., p.272; Allan, Nelson, p. 283.

6. Sarah Greenwood to ?, 4 Oct 1843, Greenwood Letters.

James McLaren on D'Urville Island warning that "Rauparaha had got all his canoes ready and intended going to Blind Bay to collect all natives that thought proper to join him and pay your place a treacherous visit...."⁷ Alex McDonald, the Nelson sheriff, had information from other sources which seemed to corroborate this message, on receipt of which he and Fox's old Gazette colleague George White, now accepted as acting-police magistrate, "waited on" Fox on the morning of September 25th to request assistance. Fox knew as little as anyone, except that the settlement was totally unprotected and that an attack on it would have very serious consequences. He moved quickly. A boat was chartered to leave the same day for Wellington to seek help.⁸ Other pleas went by the first available ship across the Tasman to Hobart.⁹ A gang of the Company's labourers was brought in from the Waimea to work on the fort on Church Hill.¹⁰ At the meeting with White and McDonald an agreement was reached by which Fox was to provide money to build the fort and pay fifty special constables for full-time duty, and White was to swear the constables and officially approve the expenditure so that the Company could recover the money from the government.

These important decisions were made in the inner office of the agency on September 25th. The public meeting the following day merely

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7. J. McLaren to A. McDonald, 2 Sep 1843, enclosed in Fox to WW, 25 Sep 1843, NZC 3/13.
 8. Fox to WW, 25 Sep 1843, and enclosure, NZC 3/13.
 9. Fox to the Governor of Van Dieman's Land, 27 Sep, 1843, GBPP, 1844, No. 556, App., p. 733.
 10. Fox to WW, 25 Sep 1843, NZC 3/13; J. Barnicoat, Journal, 28 Sep 1843.

stamped them with 'popular' approval. On the 27th a series of letters passed between White, the local Justices of the Peace, and Fox to formalise the agreement on finance.¹¹ The introduction of the Justices of the Peace put a respectable distance between Fox and the police magistrate, and disguised the fact that the entire paraphernalia of defence, the special constables, fort, and committee of public safety, were subject to the authority of the Company's agent, who alone had the resources necessary to create them.

The disguise was rather thin. When Major Matthew Richmond, chief police magistrate in Wellington, arrived in Nelson with Sir Everard Home on the warship "North Star" on October 9th, he refused to sanction the fort and dismissed the special constables as "calculated to throw so much power into the hands of the Company's agent, for it must be obvious, in the event of any difference in opinion between him and the police magistrate, that the constables, although sworn in by the latter, would more willingly obey the person from whom they derive their subsistence".¹²

Richmond had a particular reason for concern in that surveyors from Nelson were again operating in the Wairau. It was a month since he first heard of this, when he demanded of Colonel Wakefield in strong terms that the surveyor, S. Parkinson, be ordered out.¹³ Now in

11. McDonald, D. Munro, J.S. Tytler to White, 27 Sep; White to McDonald, Munro, Tytler, 27 Sep; McDonald, Munro to Fox, 27 Sep; Fox to McDonald, Munro 28 Sep; GBPP, 1844, No. 556, App., pp. 732-3.

12. M. Richmond to Colonial Secretary, 21 Oct 1843, GBPP, 1844, No. 556, App., pp. 265-6; Exam, 21 Oct 1843.

13. Richmond to WW, 22 Sep 1843, NZC 3/13.

October, he found the situation unchanged.¹⁴ Both the Colonel and Fox protested piously that Parkinson had gone in without authority and was not, in any case, a Company employee.¹⁵ These protests made for good-looking despatches,¹⁶ but scarcely represented Fox's real feelings about the Wairau. His first act as Nelson agent had been to send a search party after Parkinson when he was overdue,¹⁷ and he could have used this, and the Company contract under which the surveyor was working, to influence him to withdraw. When eventually he demurred to Richmond's sensitivity and left the plains alone, it was only to concentrate his energies on finding a route to them through the hills behind Nelson. From November 1843 to January 1844 he sent out three expeditions;¹⁸ he told Colonel Wakefield bluntly that the Wairau was "the only district adapted to supply the deficiency of the rural lands of this settlement".¹⁹ He seemed intent on the same course which led to the massacre when he applied to the police magistrate for a warrant for the arrest of Te Rauparaha and Te Rangihaeata on a charge of murder. Although White hedged, the warrant was eventually signed

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14. Richmond to WW, 17 Oct 1843, NZC 3/13.
 15. WW to Richmond, 23 Sep, 18 Oct 1843, NZC 3/13; Fox to WW, 19 Sep 1843, NZC 12th Report, App. H, pp. 112-3.
 16. Fox to WW, 19 Sep 1843 and WW to Fox, 23 Sep 1843, were both printed in NZC 12th Report, App. H, 112-3, 135, which contains the evidence chosen by the Company to lay before the House of Commons Select Committee on New Zealand, 1844.
 17. F. Jollie to WW, 20 Sep 1843, LS, 1843, Bett.
 18. J. Parkinson and J.C. Drake, 7-8 Nov 1843, Exam, 11 Nov 1843; the same with Tuckett, 28 Nov - 3 Dec 1843, ibid., 9 Dec 1843; Drake and W. Bishop, 10-19 Jan 1844, ibid., 27 Jan 1844. Descriptions of these journeys can be found in Allan, Nelson, pp. 404-6. The Company met the cost of these expeditions, J.C. Drake to Fox, 5 Jan 1844, NZC 208/3; Fox to WW, 19 Dec 1843, enclosing estimates, NZC 104/3.
 19. Fox to WW, 14 Dec 1843, GBPP, 1844, No. 556, App., p.428.

by four justices on October 12th and Fox presented it to Home for execution. Home declined to act.²⁰

Whether Fox was playing a game with the government or in deadly earnest is hard to say; but while he behaved like this it is not surprising that Richmond was uneasy about increasing his power and inclined to play down Nelson insecurity. The special constables were dismissed not because they were unnecessary but because their continued existence was, from Richmond's point of view, too risky. The dismissal, however, served only to diminish further the standing of the government and increase the influence of the Company.²¹ George White had no power to authorise government expenditure in the first place,²² but Richmond's abrupt repudiation of the authorisation was highly unpolitic, and was in effect reversed later by Fitzroy who certified the expenditure on the fort, but not the special constables,²³ as part of the £40,000 the Company had undertaken to spend on public works in

20. Home to Shortland, 12 Nov 1843, *ibid.*, p. 272; *Exam*, 14 Oct 1843.

21. Resolutions for and against the government both found supporters, but only 18 signed for it, of whom 2 (Wilson, Sinclair) were government officers, 3 (Bush, Valle, T.J. Thompson) displaced Company officers and 4 (Seymour, Dartnall, Howroyd, McKay) commercial men sensitive to the labourers' discontent with the Company. With the exception of Aldred, Wesleyan missionary, and the surveyor Barnicoat, the rest are now just names. Shortland to Stanley, 7 Nov 1843, enclosing Nelson resolutions, 20 Sep, 28 Oct, 1843, *GBPP*, 1844, No. 556, App., p. 369; *Exam*, 23 Sep, 28 Oct 1843.

22. Fitzroy to Lord Stanley, 4 Jun 1844, Governors Archives, cited in M.W. Standish, *Government Administration in New Zealand 1848-52*, pp. 4-5.

23. It was always a bone of contention, as the government did not want to sanction the erection of the fort by certifying the expenditure on it, Colonial Secretary to Fox, 22 Apr 1844, Fox to WW, 1 Apr 1845, NZC 104/5. In all, it cost £946.7.4; the fifty special constables cost £151.6.0, Jollie to Fox 35.49, NZC 104/5.

Nelson.²⁴

Although the Te Rauparaha alarm proved false, Fox's vigorous response was generally approved in Nelson. Some thought the preparations "the extreme of folly", but most did not know what to think and, like Fox himself, preferred action to inaction.²⁵ That George White, who had championed the Maoris after the Wairau, was now a partner to defence measures against them indicates the danger was taken seriously. The labourers at the fort may have talked of striking, but they worked with a will and had an impressive structure nearly completed by October.²⁶ From isolated Motueka, where several sulky confrontations took place, Fox received a request for assistance to erect a "place of refuge" which could double as a school and church.²⁷ From Waimea South the workingmen looked to Fox as "our protector" from whom they sought help to build a stockade and procure arms.²⁸ He did not, however, distribute arms freely. When some settlers on the edge of Nelson who had organised themselves into watches approached him for muskets he released none; they sat out in the fern with no weapons, or fell into creeks and lost the ones they had, scared half to death by Enock Blake "lying dead drunk on the ground"; in the circumstances they felt more secure at home in bed, which was where most of them were to

24. As part of the agreement with Lord Stanley in 1842, G.W. Hope to J. Somes, 28 Jul 1842, NZC 12th Report, App. C, pp. 120-1.

25. Sarah Greenwood to ?, 4 Oct 1843, Greenwood Letters; Barnicoat, Journal, 28 Sep 1843.

26. For a description, see Wards, p. 86, n.6; Allan, Nelson, p.268.

27. J.D. Greenwood, C. Heaphy, and others to Fox, Sep 1843, NZC 208/2. Fox provided timber to the value of £36, Estimates for Jan 1844, enclosed in Fox to WW, 19 Dec 1843, NZC 104/3.

28. W. Hough, and others, to Fox 29 Sep 1843, NZC 208/2.

be found within a day or two of the first alarm.²⁹ Insecurity inevitably diminished with proximity to Nelson where there was companionship, as well as fifty full-time constables. And rising above the town, flags a flutter, was the fort. When the eighteen pounders went booming out across the bay, reverberating as far as Motueka where they frightened the Maoris,³⁰ the shattered confidence in Anglo-Saxon superiority was restored.

The completion of the fort coincided with good news from abroad. The vessel "Ursula", which had been beating into Wellington harbour as Fox sailed out in the "Sisters"³¹ carried the information that the New Zealand Company and the British Government had "settled their differences". Land sales were to resume, land claims to be determined, a lieutenant-governor and a judge had been appointed for the south and the Company was to become the government's "Colonizing instrument in New Zealand".³² All this was confirmed by Fox at a public meeting on September 30th. His rhetoric matched the false dawn as he described how the Company had acted alone in the colonisation of New Zealand and obliged the reluctant government to follow it. He did not fear attack, he said, because the Maoris were aware of their capacity for defence: "When they heard the thunder of our guns their hearts would shrink within them...." At that the crowd threw up three lusty cheers for

29. Saxton, Diary, 27, 28, 30 Sep 1843.

30. Tuckett to his uncle, 13 Nov 1843, LS, 1843, Bett.

31. Exam, 30 Sep 1843.

32. Barnicoat, Journal, 1 Oct 1843; Saxton, Diary, 30 Sep 1843. This was an optimistic interpretation of the NZ agreement with ~~the~~ Lord Stanley, 1843, as set out in NZC 12th Report, App. B. See E. Wilson, Land Problems of the New Zealand Settlers of the Forties, pp. 27-28, for the various constructions put upon the agreement.

Fox and McDonald, "followed by a royal salute from the Fort"³³ - presumably for the Queen. This was more fun than the Inns of Court.

McDonald's triumph was short-lived. He was rebuked by Richmond for exceeding his authority and resigned.³⁴ George White earned no plaudits either; when Governor Fitzroy made his first visit to Nelson in February 1844 he dismissed the Police Magistrate - opinion had it because he was an infidel and a reader of Tom Paine.³⁵ The four Justices of the Peace who signed Fox's warrant were told they would be removed from the commission.³⁶ Clearly, the government expected its officers to serve only one master.

Great expectations had been held out towards Robert Fitzroy. Fox had heard that he was free of all the "insane prejudices" which afflicted the present Auckland government and was ready to advance European interests.³⁷ The expectations did not survive his first visit to Nelson,³⁸ where he made clear that he was not going to subordinate Maori rights to settler claims. He gave offence to several leading men and left the place with few friends, although a considerable number were prepared to give him the benefit of the doubt.³⁹ Fox took a cautious view of him, and his report of the visit is reasonably fair. He had himself attended most of the meetings with the various deputations,⁴⁰ and his hand can be seen in the memorial sent to the

33. Exam, 7 Oct 1843; Barnicoat, Journal, 1 Oct 1843.

34. Exam, 14 Oct 1843.

35. Fox to WW, Notes on Governor Fitzroy's visit to Nelson, enclosed in WW to Sec NZC, 19 Feb 1844, NZC 3/4; Dillon to his mother, 11 Feb 1844, Dillon Letters, pp. 29-30.

36. Exam, 10 Feb 1844.

37. Ibid., 7 Oct 1843.

38. Well described in Allan, Nelson, pp. 285-291.

39. Letter to Exam, 24 Feb 1844, with signatories.

40. Fox to WW, Notes on the visit, enclosed in WW to Sec NZC, 19 Feb 1844, NZC 3/4.

governor aboard his ship and read at a meeting on 7 February 1844.⁴¹ Fox perennials like free-trade,⁴² an end to the importation of pardoned convicts,⁴³ and the status of the Maoris under British law⁴⁴ were packed in alongside more immediate problems like who was to support the widows and disabled men left by the Wairau.⁴⁵ The governor's view that the Wairau seemed to belong to the Maoris and the settlers who were killed had no right to be there, moved Fox to pen what was probably his first Examiner editorial in which he instructed Te Rauparaha in the niceties of English jurisprudence. "The law", he said, "will not allow a party, though wrongfully ^{dis}possessed, to retake possession by violence".⁴⁶ One year later, at the peak of his power, Fox was marching at the head of a small army to do precisely what the law would not allow.

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On 19 January 1845, John Saxton was sitting down to Sunday dinner when breathless neighbours brought news that three hundred Maoris were entering the town and that there was not a moment to lose. Foregoing

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- 41. Exam, 10 Feb 1844.
 - 42. NZGWS, 7 Jan, 11 Feb, 1843.
 - 43. NZGWS, 10 Dec 1842, 14 Jun 1843.
 - 44. NZGWS, 8 March 1843.
 - 45. The subject of an exchange of letters between Fox and White, Sep-Oct 1843, in GBPP, 1844, No. 556, App., pp. 425-6. The government assumed responsibility for the widows in August 1844, Allan Nelson, p.287. By then the Company had paid out £473.6.0 in pensions, Bell to Fox 22 Aug 1849, and enclosures, NZC 104/5.
 - 46. Exam, 24 Feb 1843. Passages in the editorial are almost identical to Fox's report to Col. Wakefield, in WW to Sec NZC, 19 Feb 1844, NZC 3/4.

his stuffed cucumber, Saxton raced off with pistol and rifle. He fell in with others on the road into town; one of them was sharpening a sword as he ran. They burst on to the green to find the sabbath peace undisturbed except by themselves. A woman crying and a knot of men around the Court House were all that suggested trouble afoot.⁴⁷ In the event the suggestion was still greater than the trouble, the Wakapuaka chief, Paremata.

Paremata had lost his mana through captivity in Otago⁴⁸ and he compensated for it by bluster, making flattering comparisons between himself and Te Rauparaha.⁴⁹ Six days before he interrupted Saxton's dinner, Paremata had arrived back at Wakapuaka from the north accompanied by a few Waikatos, and began immediately to warn settlers off the land at "Happy Valley".⁵⁰ He said cattle had trampled his potato grounds,⁵¹ and that he had not sold Wakapuaka.⁵² A party camped by Francis Jollie's farm, making a great din until four o'clock in the morning. They "de-meaned" lunch from Robert Tod and burned the stockyards of J. McKay, taking care to remove all the nails first,⁵³ the way Te Rauparaha had removed all the surveyors things from the raupo hut he burned in the Wairau in June 1843.⁵⁴

A public meeting was held in Nelson on Saturday 18th at which the

47. Saxton, Diary, 19 Jan 1845.

48. Exam, 25 Jan 1845.

49. Allan, Nelson, p. 75.

50. Exam, 25 Jan 1845. The Wakapuaka district was Suburban North in the Company's plan, and popularly called "Hokipoke", Allan, Nelson, p.204; it was also called "Happy Valley", Saxton, Diary, passim.

51. Saxton, Diary, 21 Aug 1845.

52. Exam, 25 Jan 1845.

53. Ibid.; Saxton, Diary 18 Jan, 29 Aug 1845.

54. J. Miller, p.70.

new police magistrate, Donald Sinclair, agreed to take a party of volunteers to Wakapuaka on the following Monday.⁵⁵ Then came the false alarm of the Sunday, which brought Saxton into town and joined him to the little knot of people around the Court House. Most prominent there was Fox, who with Samuel Stephens, the Company's chief surveyor, was drawing up a list of likely volunteers. "Mr. Fox advised that they should advance to Parremata's Pah and burn his canoes,"⁵⁶ Saxton recalled. This bellicose attitude probably contributed to a change of heart among the gazetted guardians of the peace who, Monro⁵⁷ dissenting, decided at a private meeting on the Sunday afternoon not to prosecute the volunteer plan of the day before but to write to Paremata inviting him to Nelson to see the maps, and to write at the same time to Richmond at Wellington to send troops.⁵⁸ Fox rejected this new policy out of hand and

at a private interview with the Magistrates, I informed them that I could not acquiesce in the decision they had come to, and should consider it my duty to, maintain the settlers in the possession of their land by whatever means I might think most expedient.⁵⁹

The means were at hand in the excitement of the settlers, aroused now by the prospect of a clash. When the magistrates put their revised plan to a meeting on the Sunday evening it was hooted down.⁶⁰ From that point on, the government was merely a spectator. Fox was in

55. Exam, 25 Jan 1845.

56. Saxton, Diary 19 Jan 1845.

57. The other J.P.s would be J.D. Greenwood, J.S. Spooner, F. Otterson and P. Valle. They met with Sinclair.

58. Exam, 25 Jan 1845.

59. Fox to WW, 25 Jan 1845, NZC 3/15.

60. Exam, 25 Jan 1845.

control.

At noon on the Monday there was another public meeting. Fox said it was necessary to take an armed force to Wakapuaka to protect the surveyors while they marked out the disputed boundary. Volunteers were immediately forthcoming. Fox was voted to the command of the force,⁶¹ making good an earlier promise to be in the thick of the fighting if it ever came.⁶² The rest of the day was spent arming the party from the Company stores. At a muster that evening the chief constable read a notice from Sinclair forbidding the performance to go on. "But mark you, men of England, how your colonies are governed", the Examiner cried, "At five next morning the settlers meet, well armed, to the number of 70 or 80, which increases to about 100 by the time they reach the disputed district."⁶³

They went in single file, Charles Elliot coming along behind with a cartload of pikes and beer. It was a beautiful morning. A rainbow arced low over the troubled district. They remarked how well the farms looked. At Tod's they paused for milk, at Jollie's for morning coffee, and at Martin's stockyard, at the mouth of the Happy Valley, they began on the cheese and beer. Then "Mr. Fox harangued the men and Wilson the Boatswain broke in, saying that he himself would shoot the first officer or man who should attempt to run". Inspired by this appeal to their valour, they set to their duty. Half went with the surveyors to cut the line, the rest on "reconnaissance" with Monro and Edward Stafford. With the reconnaissance party, Saxton climbed to a hilltop where he was

61. Saxton, Diary, 20 Jan 1845.

62. Exam, 7 Oct 1843.

63. Exam, 25 Jan 1845.

overcome by peace, beauty and lethargy and lay down in the sun. The cry of "Natives" which wakened him presaged an encounter with the Maoris - all three, whom the Rev. Reay had persuaded from the pa to see the map. McDonald was all for marching in to find the rest, but the missionary Reay, who alone knew the way, refused to take them if they went armed and Fox refused to undertake the five-hour journey through the bush without weapons. So they made do with notices in Maori which they stuck on the trees along the boundary. Home they went then, in single file, singing lusty warrior songs. At Jollie's they had gin and madeira; at Tod's they fired their arms at a rock, some of them hitting it, and came into town in good order flying banners of red silk in triumph from the end of pikes. They were drawn up in line on the green and when Sinclair appeared Fox gave the order for three groans. They faced about, gave three cheers for Fox, fired a volley in the air and drank a barrel of ale.⁶⁴ When Colonel Wakefield heard of the expedition he remarked laconically that it was just as well they had not met any Maoris.⁶⁵

From the settlers point of view the expedition had been a success, for Paremata gave them no more trouble. The directors of the Company in London were much pleased by Colonel Wakefield's official account,⁶⁶ which was more fulsome than his unguarded comment, and they praised Fox for his "decision and firmness coupled with justice".⁶⁷ Dillon Bell compared Paremata with Hone Heke, and contrasted the decisive settler action against the first with the government's bumbling attempts to

64. Ibid.; Saxton, Diary, 21 Jan 1845.

65. Saxton, Diary, 18 Aug 1845.

66. WW to Sec. NZC, 18 Feb 1845, NZC 18th Report, Supplement, No. 54.

67. WW to Fox, 30 Dec 1845, NZC 203/4.

control the second.⁶⁸

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The government warship "Hazard" came to Nelson from Wanganui on January 24th, the day after the expedition against Paremata, but its arrival owed nothing to that event.⁶⁹ Richmond was on board, however, and with Fox and Sinclair visited Paremata at his pa and got him to agree to the boundary line.⁷⁰ Fox had already sent the chief a message in which he threatened, with grand impudence, to bring him before the "Queen's Law" in Nelson if he gave any more trouble.⁷¹

The "Queen's Law" in Nelson had never been so much diminished. Before the Paremata party were dismissed by Fox it was decided, without the sanction of either officials or Justices of the Peace, to create a permanent Volunteer Force. Reporting to the Colonel, Fox said

Since the Governor and Council have distinctly declined acting, in obedience to Lord Stanley's recent instructions to embody a Militia,⁷² the Settlers see that they must take steps to afford themselves that protection which Government denies them; and I cannot help feeling that it is my duty to assist them, as far as possible, in a proceeding so necessary, and so much in accordance with the wishes of the Home Government, even though it may place me in opposition to the Local Authorities.⁷³

68. Bell, Circular Letter No. 3, 10 April 1845, LS, 1844-48, B.H.

69. Bishop Selwyn to E. Hawkins, Easter Eve, 1845, quoted in H.W. Tucker, Memoir of the Life and Episcopate of George Augustus Selwyn, p.175.

70. Ibid.; Exam, 1 Feb 1845.

71. Fox to WW, 25 Jan 1845, NZC 3/15.

72. Ld. Stanley to Fitzroy, 11 March 1844, GBPP, 1844, No. 556, App., p.724.

73. Fox to WW, 25 Jan 1845, NZC 3/15.

It is not likely that Lord Stanley enthused over this attention in the south to instructions which were allegedly ignored in the north, for Fox's behaviour showed how real was his power in Nelson and how slight was that of government. Fitzroy had declined to establish a militia for two principle reasons; one was that he lacked the resources, the other that he feared what armed settlers would do,⁷⁴ which is to say he did not think he could control them. Fox could meet both these problems; he had sufficient arms to equip a sizeable force, and custody of the arms gave him control of the force to which they were issued. He might have maintained his dominance had he not imprudently attempted to drill the volunteers into political opinions as well as military skills.

At the very first muster of the volunteers⁷⁵ he produced a certain paper which was being circulated. The contents of this paper remain part of the unravelled spaghetti of Nelson politics, but it was probably an insulting rejection of Fitzroy's offer to Nelson to choose a member to sit in the Legislative Council; to warn off government supporters, Fox had, with deft cunning, welded the offer to a notice demanding Fitzroy's recall.⁷⁶ When the volunteers had assembled, Fox ordered all those who had not signed the paper to fall out. McDonald did as ordered, but Saxton refused either to sign or fall out. An altercation followed between him and Fox, until finally the agent relented; but the volunteers were apparently dismissed without being drilled.⁷⁷ It may well have been the agent's extended view of his command which

74. Wards, pp. 109-10.

75. On Saturday, 25 Jan 1845, Saxton, Diary, this date.

76. Exam, 15 Feb 1845.

77. Saxton, Diary 25 Jan 1845.

encouraged William Bishop and others to establish their own pro-government private army, separate from that of Fox;⁷⁸ but while Fox controlled the arsenal they were no match for him.

The arms in the Company's store formed a curious collection, ranging from pikes to field-pieces.⁷⁹ They had been brought out originally to barter with the Maoris⁸⁰ and were not maintained in very good order;⁸¹ but in a community which felt insecure they gave a little comfort, and to the man who controlled them they gave a good deal of influence. They particularly worried the government officers, as it was Company arms which had equipped the Wairau party.⁸² After the Paremata excursion the government attempted to inveigle them out

78. Ibid., 22 Jan 1845.

79. The arms inventory at 31 March 1849 was:

- 6 rifles with swords
- 5 rifles with swords and belts missing
- 44 muskets, bayonets, scabbards
- 3 bayonets
- 32 cartridge boxes
- 112 pikes
- 60 pike heads
- 4 nine pound cannonades with carriages
- 2 nine pound long guns
- 5 rammers and sponges
- 2 ladles and worms
- 11 gun handspikes with iron shoes
- 7 boxes cannister shot
- 350 round shot
- priming irons, powderhorns, measures
- 15 barrels ball cartridge
- 5 barrels flannel cartridge for cannon 2 $\frac{1}{4}$ lbs
- 2 barrels 1 lb. 2 oz.

Jollie to Fox, 16 Apr 1849, NZC 104/5. To this list must be added the weapons handed out to settlers in various alarms and never returned, Daniell to Kelham, 18 Feb 1845, NZC 104/4.

80. W. Pratt, Colonial Experiences, p.44.

81. J.A. Wilson to Fox, 7 Nov 1843, NZC 208/2.

82. Allan, Nelson, p. 252.

of Fox's hands. Sinclair, acting probably on higher authority,⁸³ noted that there were no arms at the disposal of the government in Nelson with which special constables could be equipped and suggested a requisition of those in the Company's possession.⁸⁴ Fox agreed, but on terms that did not flatter the government; Sinclair was to be held personally liable, as the repudiation of White's authorisation of the fort expenditure showed the government could not be trusted. He also demanded that the arms be returnable to him at an hour's notice

in order that, in a case of emergency, I
may not be placed in a position where I
could not act in obedience to the dictates
of my own judgment.⁸⁵

In a report to Colonel Wakefield, Fox regretted having to act with such "circumspection and strictness" towards the local authorities, but they were quite untrustworthy.⁸⁶ This report was brought to the attention of the Colonial Office by the Company directors in London; it may have been the alarming extent to which government had passed into private hands as much as the settlement's defenceless state which caused the ensuing "flap" at the Colonial Office.⁸⁷ The Company was given a loose promise that two-hundred stand of arms would be sent to the southern settlements,⁸⁸ and in June 1846 the "Ralph Bernal" came in to Nelson with sixty-two cases of muskets, sixteen cases of accoutrements and

83. The government brig "Victoria" arrived in Nelson the day before Sinclair's request was made. Fox to WW 14 Feb 1845, LS 1844-48, Bett; Saxton, Diary, 11 Feb 1845.

84. D. Sinclair to Fox, 12 Feb 1845, NZC 208/4.

85. Fox to Sinclair, 12 Feb 1845, NZC 208/4.

86. Fox to WW, 9 Apr 1845, NZC 19th Report, App.

87. Colonial Office reaction is described by Wards, pp. 356-358.

88. Sec. NZC to WW, 9 Dec 1845, NZC 102/5.

casks of ball.⁸⁹ By then however, Fox had ceased to be a military figure of importance. The volunteers had been displaced by a regular militia, and the militia in turn by the establishment of some six hundred troops in Wellington.⁹⁰ As the government moved in, the agent bowed out.

News of Fitzroy's Militia Ordinance⁹¹ reached Nelson at the end of April 1845,⁹² but it was August before the men began to drill. They were uniformed in blue workmen's clothes a moribund flax company had intended for its staff. At first they carried no weapons; the Maoris taunted them, saying they were not fit to be given guns lest they shoot one another.⁹³ Eventually they did receive arms, which must have come from Fox's store, for there were no others. But Fox did not like the militia. He refused a commission, ostensibly because the duties were too demanding,⁹⁴ otherwise because he was expected to take a subordinate rank. Sinclair, with whom he had recently been so domineering, was, as police magistrate, ex officio colonel. As if it was not mortification enough to have that drunken nonentity⁹⁵ strutting around in uniform holding forth about when he was in the army,⁹⁶ Fox was also expected to acknowledge the superior military talents of the aging Dr. Greenwood who was appointed senior

89. Saxton, Diary, 10 Jun 1846.

90. A. Mulgan, The City of the Strait, p. 130.

91. Sess, V, No. 1.

92. Saxton, Diary, 23 Apr 1845.

93. Ibid., 26, 29 Aug 1845.

94. Ibid., 21 May 1845.

95. According to Fox and C.A. Dillon, who also declined to serve under him. Dillon to his mother, 11 Feb 1844, Dillon Letters, p. 30; Fox to ? 27 Aug 1844, CO 208/127; Saxton, Diary, 21 Jun 1845.

96. Saxton, Diary, 10, 12 May, 20 Aug 1845.

captain over him.⁹⁷ He bluntly declined to serve. A deputation tried to persuade him, and Greenwood himself offered to step down,⁹⁸ but Fox was adamant and the "Nelson Battalion and Militia" ran its brief, ridiculous career without him.⁹⁹

His military role in Nelson up to 1845 was more important to Fox's position than is suggested by the farcical nature of the operations themselves. In August 1844 the once impressive establishment of the Nelson agency was reduced by the suspension of the Company¹⁰⁰ to three men and no money. The grand sally against Paremata has to be seen against a background of bankruptcy, bouncing cheques, and general despondency. It made the settlers feel good to be on top for a change; and it was due to Fox, his museum of munitions and pugnacious enthusiasm, that they had their picnic. Although the agency was a skeleton, people still rattled at the bones when they imagined themselves in danger. One of the last requests to Fox for protection came from a meeting of working-men who were alarmed by reports of Hone Heke's activity in the Bay of Islands. They appealed for arms, and then suggested that while standing guard they might be paid 1s. to 1s6d. per day, that is "if any of the Company's funds remained".¹⁰¹ This naive expression of trust came after these men had endured seven months of severe hardship following the suspension of Company relief in August 1844. They could justly accuse the Company of having deceived them in England

97. Greenwood to Mrs Field, 12 Jul 1845, Greenwood Letters.

98. Saxton, Diary, 31 May, 21 June 1845.

99. It seems to have been defunct by 1846, Nelson Militia Papers, Bett. See also Wards, p.394.

100. See below, pp.82-7.

101. A. Rankin and others to Fox, 31 Mar 1845, NZC 208/3.

and betrayed them in New Zealand. Still they appealed. But now the direction in which they looked was not to the Company as such but to the Company's agent personally; and that they continued to trust was due largely to the way he had handled the unemployment crisis.

CHAPTER 5.THE USES OF POWER

In September 1843 Nelson had over three hundred labourers engaged in relief work on the public roads because they were unable to find private employment.¹ The Company gave work to all in need;² it administered a system akin to the old English poor law,³ with all its demoralising sloth and inefficiency, and at the cost of about £1000 per month.⁴ Because there was no regular local or general government to take over responsibility, the Company's agents had an extremely difficult task to effect the directions they received from London to reduce this expenditure.⁵ Disorder and destitution would result from such a policy; it would be possible only if the labourers were given alternative means of livelihood, which meant setting them up on land of their own. Captain Arthur Wakefield had moved in this direction, but too cautiously; the terms he offered were contaminated by the doctrine that it was a great evil to allow labourers too easily to

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1. Fox to WW, 6 Jul 1843, NZC 3/18, afterwards published as Fox's Report on the Settlement of Nelson in New Zealand.
 2. A pledge had been given by the Company to some, but not all, emigrants that work would be found for them; however, the pledge was largely a dead letter and the Company supported all, Fox to WW, 7 Oct 1843, LS, 1843, Bett; 1 Nov 1843, NZC 3/13.
 3. WW to Sec. NZC, 10 Sep 1843, NZC 3/13.
 4. Estimates for Oct 1843, enclosed in Fox to WW, 25 Sep 1843, NZC 104/3.
 5. WW to Fox, 23 Oct 1843, enclosing Sec. NZC to WW, 26 Jan 1843, NZC 203/2; WW to Fox, 30 Jan 1844, enclosing Sec. NZC to WW, 22 Jun 1843, NZC 203/2.

become landowners.⁶ Frederick Tuckett may have done better had not Colonel Wakefield forced him away from the attempt to end the relief works into the blind alley of putting them "on a sound footing" and making them pay.⁷ Obedient to his superior, Tuckett gathered the scattered work parties into large gangs the better to supervise them;⁸ but concentration served to intensify grievances and encourage the men to a more overtly hostile attitude. An ugly situation developed.⁹ The police magistrate was either too scared of the labourers or too sympathetic towards them to take any action;¹⁰ the landowners, out of a sense of delicacy, offered the harassed agent no more than moral support.¹¹ Tuckett was so unnerved that he felt he "would rather be confined to solitary imprisonment for twelve months than endure such sort of existence for another twelve weeks". He apologised for the chaos he bequeathed the new agent.¹²

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6. Gibbon Wakefield spoke of "that backward stage... when every one ... is a cultivator on his own account...." Wakefield and Ward, p. 7. Capt. Wakefield offered plots of land, but no subsistence while they were being brought in; and piecework, but at too low a rate and with too many unacceptable conditions, A. Wakefield to WW, 1 Aug 1842, NZC 104/7; 25 Feb 1843, NZC 104/7; 29 Apr, 10 May 1843, LS, 1843, Bett; Landowners memorial to Tuckett, n.d., NZC 208/2; Pratt, pp. 55-6.
 7. WW to Sec. NZC, 10 Sep 1843, NZC 3/13.
 8. Tuckett to WW, 25 Jul, 30 Aug 1843, LS, 1843, Bett.
 9. The conduct of the labourers before Fox's arrival is briskly described in Allan, Nelson, pp. 275-80.
 10. Against White's magisterial feebleness as described by Allan, Nelson, pp. 279-80, must be set his support for Chartist agitation in NZGWS, 31 Dec 1842.
 11. J. Greaves to Tuckett, 30 Aug 1843, NZC 104/3.
 12. Tuckett to WW, 31 Aug 1843, NZC 104/3.

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Fox found the gangs quiet when he arrived. They had proven the police ineffective, defeated the attempt at supervision and were the masters of the settlement.¹³ He was in no position to adopt any tough measures towards them; it could only injure the settlement and the Company's reputation.¹⁴ He could expect very little help in case of trouble, and lots of advice at all other times. That the men had to be got off relief and on to land was "so obvious", said the Colonel, "as not to require further comment from me".¹⁵ Less obvious was how it was to be done.

There were two views. One advocated the abolition of public works relief and the diversion of the Company's resources to grubstaking the men on land. This was opposed by Colonel Wakefield on the grounds of expense,¹⁶ and supported by Tuckett, because it meant an end to the frightening gangs;¹⁷ it found limited support among the landowners,¹⁸ who feared the effect on the labour market of the high wage rates which were essential to the second view. This was that men on relief should be offered contract rates which would allow them to make enough in half a week to keep them while they worked their land for the other half. It too was opposed by the Colonel on grounds of expense;¹⁹ but it was thought to have originated with the late Captain Wakefield²⁰ and had the support of a good number of the landowners,

13. Fox to WW, 19 Sep 1843, NZC 12th Report, App. H, p. 112-3.

14. Fox to WW, 1 Nov 1843, NZC 3/13.

15. WW to Fox, 8 Nov 1843, NZC 203/2.

16. Tuckett to WW, 30 Aug 1843, LS, 1843, Bett.

17. Tuckett to WW, 25 Jul, 31 Aug 1843, ibid.

18. to 20. see next page.

who hoped for a reasonably liberal arrangement, and the shopkeepers, who hoped to see the Company continue to disburse cash.²¹ It was this second policy which Fox adopted.

Colonel Wakefield had not been particularly helpful. His strong recommendation of "vigilant superintendence and some examples by dismissal"²² did not constitute useful advice in view of Tuckett's experience. Fox was guided more by his subordinates. The concentrated gangs were immediately dispersed into small parties with which he negotiated separately. Philip Valle produced a statistical analysis of the public works which demonstrated that if piece-work were let even at ninepence per cubic yard, which was the maximum being asked and threepence more than Captain Wakefield's best offer, the return to the Company in terms of work performed would be approximately double what it had been getting under the old "day dawdling" system.²³ Valle's orderly costing was useful to display before the directors, but in his conduct of the negotiations Fox seems to have been guided more by impulse than calculation; according to his official despatch he managed to get the most troublesome labourers in Waimea East to accept ninepence per cubic yard in swamp and eightpence on dry land,²⁴ but these same men petitioned that Valle had tried "to screw them down to

18. Memorial from a committee of landowners to Tuckett, July, 1843, NZC 208/2; Barnicoat, Journal, 19 Jul 1843.

19. Tuckett to WW, 31 Aug 1843, NZC 3/13.

20. Conversation with Capt. Wakefield recalled by Joseph Greaves, Greaves Letter Book, p.25, Bett.

21. Barnicoat, Journal, 20 Jul 1843; Greaves to Tuckett, 30 Aug 1843, NZC 104/3; Tuckett to WW, 25 Jul 1843, LS 1843, Bett.

22. WW to Fox, 4 Sep 1843, NZC 12th Report, App. H, p.95.

23. Valle to Tuckett, 24 Sep 1843, *ibid.*, pp. 122-5; Tuckett to WW 25 Jul 1843, LS, 1843, Bett; A. Saunders, Tales of a Pioneer, p.55.

24. Fox to WW, 1 Nov 1843, NZC 3/13.

ninepence per cubic yard in a swamp and eighteen shillings per week on day wages, when that liberal gentleman Mr. Fox gave them two shillings and a pound".²⁵ If a penny marked the difference between swamp and dry land it is hard to see what objective factors could account for a difference of fifteen pence. Haphazard arrangements like this did not endear him to his officers; but the labourers did not complain. Even^{at} ninepence per cubic yard they could clear 30s. to 40s. per week, which was double the ordinary relief rates for day work; but the point of Fox's generosity was that they worked on the roads only two or three days, devoting the rest of their time to five acre plots which he leased them.²⁶ The surveyors were busy subdividing Company reserves and unsold colonial sections for this purpose.²⁷ The rents seldom exceeded two or three bushells per acre,²⁸ and were probably never collected anyway.²⁹ The labourers could buy their plot at any time for £2.5.0 per acre.³⁰ The small holdings which became characteristic of Nelson were being created.

Fox had thrown wide the door to the land which Captain Wakefield and Tuckett had merely pulled ajar; having restored the initiative to the Company by accepting the labourers' demands, he began gently to apply pressure to force them through it. First to go were those few men who had turned down private employment so they could participate

25. Fox to WW, 22 Jun 1844, enclosing Valle to Directors NZC, 30 May 1844, quoting the labourers' complaints, NZC 104/4.

26. Fox to WW, 1 Nov 1843, NZC 3/13.

27. In the Nelson scheme the Company itself purchased 100 allotments and reserved another 200 for sale in the colonies, see Allan, Nelson, p. 51. The surveyor Barnicoat remarked on the trend towards subdivision, Journal, 23 Nov 1843.

28. Fox to WW, 26 Dec 1846, NZC 3/17.

29. F.D. Bell, Circular Letter No. 3, 10 Apr 1845, LS, 1844-45, Bett.

30. Fox to WW, 26 Dec 1846, NZC 3/17.

in the bonanza on the public works; their case was weak and Fox could dismiss them with little difficulty.³¹ Next he moved against those who took advantage of the piecework but had no intention of leasing land. Francis Jollie, clerk to the agent, was sent to investigate; all who had not taken up land were barred from the contracts,³² although they could continue on day work at the relief rates of 18s. and 16s. per week.³³ The labourers were now divided into two groups with different interests: the contractor-cultivators and the day men. The combination was thus broken, as Tuckett had foreseen;³⁴ Fox could squeeze the day men without losing the confidence of the cultivators. Abuses nevertheless continued; men took out leases to qualify for piecework but did little or nothing with the land they obtained. In January 1844 he tightened the regulations again, making actual cultivation rather than leasing the condition for getting piecework.³⁵ But where there was any real resistance he could do nothing: in April his superintendent of works reported men still on piecework but not cultivating,³⁶ although most had taken land.³⁷

The corollary to opening up the land by piecework was closing down the lid of the Company's cash box and reducing relief payments for day work. This was a much more delicate operation. The presence of troops in Nelson would have been a great comfort - not necess-

31. Fox to WW, 1 Nov, 1843, NZC 3/13.

32. Pratt, pp. 65-66.

33. Married men with two or more children, 18s., all others 16s.
Fox to WW, 9 Jul 1844, NZC 3/14.

34. Tuckett to WW, 31 Aug 1843, LS, 1843, Bett.

35. Fox to WW, 27 Jan 1844, NZC 3/14.

36. J. Thompson to Fox, 1 Apr 1844, NZC 208/3.

37. Ward said Thompson told him only 35 out of 310 Company labourers had no land, Ward, Journal, 22 Jun 1844.

arily as instruments with which to screw down the labourers but to give Fox a stronger position from which to negotiate and the settlement rather more security from any disorders he might provoke. Requests from Nelson for troops to overawe the labourers were made quite openly³⁸ and were not unreasonable in view of the weakness of the police. Richmond was sympathetic; he told Shortland and Sir Everard Home troops should be sent,³⁹ but because he had none to send he told Colonel Wakefield they were not needed.⁴⁰ When Home received requests for troops explicitly to control English labourers he loftily disdained to answer.⁴¹ Fox, not surprisingly, therefore, played on fear of the Maoris when he requested troops from the Australian governors⁴² at whose command stalwarts like Home set sail. In late November 1843 he renewed an appeal for protection to the Governor of Van Dieman's Land when there was not a Maori in sight.⁴³ Wards wonders why he resorted to such chicanery.⁴⁴ The reason was that he had no hope of getting police backing in New Zealand for the introduction of a system of fortnightly instead of weekly relief payments; minor as the operation sounds, it was Tuckett's abortive attempt to make this adjustment which had provoked the most violent disorders in July.⁴⁵ Fox had reason to feel

38. Tuckett to WW, 30 Aug 1843, LS, 1843, Bett; WW to Richmond, 8 Sep 1843, NZC 3/13; Exam, 21 Oct 1843.

39. Richmond to Colonial Secretary, 13 Sep 1843, IA 1843/1958, cited by Wards, p. 85.

40. Richmond to WW, 8 Sep 1843 NZC 3/13.

41. Home to Shortland, 12 Nov 1843, GBPP, 1844, No. 556, App., p.271.

42. Fox to Lt. Gov. Van Dieman's, 27 Sep 1843, ibid, p.733.

43. Fox to Lt. Gov. Van Dieman's Land, 27 Nov 1843, G 30/4, pp.1307-13, quoted in Wards, p.87. From the quotation this second appeal appears identical to the first, n.42 above.

44. Ibid.

45. Tuckett to WW, 25 Jul 1843, NZC 104/3.

apprehensive; he was clearly relieved, as well as a little pleased with himself, when in December he effected the change over with no more opposition than was contained in a petition of the men against it.⁴⁶ In January 1844 he withdrew relief from boys and from men who had come on the first expedition in 1841 and therefore had no legal claim on the Company.⁴⁷

In February, he had a private interview with Governor Fitzroy at which he pressed for the last time, and with no mention of Maoris, the need for a garrison to keep the labourers in check. The governor declined, but pleased Fox by telling a deputation of working men that if they caused trouble "he would be down on them with the military".⁴⁸ With this backing he scaled down the day rates for single men and married men with no children to 10s. and 14s. respectively. In July, the day rate was cut again by 2s. in all grades except single men, who dropped 1s.⁴⁹ Piece-work rates, of course, remained high; the land was there for the taking. There was complaining, but no resistance to these reductions. Everyone knew the end was approaching. Still, it took them by surprise when it eventually came,⁵⁰ on Monday 26 August 1844, by the cutter "Finetta".⁵¹

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Fox was at the port that morning. As he recalled later, it was

46. Fox to WW, 6 Jul 1848, NZC 3/18; J. Brown and others to Fox, n.d., NZC 208/2; Allan, Nelson, p. 356 and n.10.

47. Fox to WW, 27 Jan 1844, NZC 3/14.

48. Fox's report on Fitzroy's visit to Nelson, Feb 1844, enclosed in WW to Sec. NZC 19 Feb 1844, NZC 3/4.

49. Fox to WW, 6 Jul 1844, NZC 3/14.

50. Pratt, pp. 21, 92.

51. Barnicoat, Journal, 26 Aug 1844.

dark and stormy and raining heavily. A nor'-wester was blowing down the bay. He opened the mail from the cutter, then mounted his horse and rode hard to the Waimea where Colonel Wakefield was visiting.

Both men were worried, and with good reason: half the community was from that day deprived of its maintainence.⁵² The English managers of the Company, "comfortably sitting by their firesides", had thought it a good moment to confound the Colonial Office by discontinuing operations.⁵³ Accordingly, the word went out to the colony: "Suspend all public works; and discharge all labourers."⁵⁴

The Company's suspension did not come unheralded. When Colonel Wakefield arrived in Nelson from Otago ten days earlier he heard the first rumours. He was clearly apprehensive,⁵⁵ but he told Barnicoat, who was on the point of tendering for the Otago survey, to go ahead, as "the threat to dissolve is all a ruse on the part of the Company".⁵⁶ With the comfortable assurance of a man in the know, Fox told the Saxtons on August 23rd that if they knew as well as he did the sort of person who drew up the Company's reports they would treat the rumours as lightly as he did.⁵⁷ Six days later he was facing the men, between 270 and 300 of them, to announce that the Company was suspended and they were out of work.⁵⁸

They dispersed quietly, knowing there was nothing more to be had.

52. Exam, 25 Mar 1848.

53. F.D. Bell, Circular Letter No. 2, 17 Sep 1844. LS, 1844-48, Bett.

54. Sec. NZC to WW, 18 Apr 1844, NZC 102/14.

55. Saxton, Diary, 17 Aug 1844.

56. Barnicoat, Journal, 14 Sep 1844.

57. Saxton, Diary, 23 Aug 1844.

58. WW to Sec. NZC, 5 Sep 1844 (No. 12), NZC 3/14; Saxton, Diary, 28 Aug 1844; Saunders, p.56.

Fear of violence flickered through the settlement; a bullock was butchered, and some men borrowed supplies from a storekeeper, leaving promises to pay in lieu of hard cash. But Richmond's offer of troops in case of necessity provided sufficient security for most⁵⁹ and there were strong objections when the "noodles of magistrates" began swearing special constables.⁶⁰ The practice was not liked at any time (unless for a foray against the Maoris) and was thought especially provocative and imprudent at this time. Fox publicly objected to the summons and escaped enrolment because of his official position.⁶¹ Instead, he climbed into the pulpit of the Nelson Examiner and delivered a homily which would have done credit to any of his brothers.

The money was all gone, he said. There was no point in provoking "useless irritation" by censuring the Company, though it might well be censured; if it was at fault then there would be "little difficulty" in making all directors and shareholders personally responsible for unfulfilled financial engagements. He moved from this quiet appeal to reason and promise of redress to the "benevolence, compassion, and public spirit" of the landowners and the "respect, obedience, and regard" of the labourers, which should "knit together into a prosperous, healthy, and harmonious whole". Then retreating from the trite, he rang the bell of courage - Colonisation was for tough men, he cried. A muted counter-point followed, a glimpse of England where "one out

59. WW to Sec. NZC, 5 Sep 1844 (No.12), NZC 3/14; Fox to WW, 2 Oct 1844, NZC 3/14.

60. Copied extract from unidentified letter published in New Zealand Journal 1845, No. 2, p.44, in LS, 1844-48, Bett.

61. Fox to WW, 2 Oct 1844, NZC 3/14; 6 Jul 1848, NZC 3/18.

of every twelve pines on water-gruel in a poor-law prison". A reference slipped in, almost accidentally, that Richmond had troops at Wellington; then from this whisper of coercion he soared off into a peroration that trumpeted the superiority of the "folk". They had he said, to make "clear and undeniable to all that we are a worthy brand of the great race which seems destined to plant its laws, institutions, and morals, in all the vast untenanted spaces of God's earth".⁶² All platitudes, but effectively put together.

Backs to the wall and shoulders to the wheel was the prescription, administered, as usual, through public meetings and committees. Flax-dressing, sawing, cultivating, salt-making were hopeful suggestions; but they were offered with a certain degree of lassitude: "Mr. Martin then said a good deal", was Ward's strongest impression of one meeting.⁶³ Fox allowed landowners to exchange their land provided they took on more men.⁶⁴ The price of labour fell to 10s per week;⁶⁵ farmers were inclined to congratulate themselves because they employed men at these rates,⁶⁶ but Stafford said later that the labourers would have starved had they relied on the landowners.⁶⁷ They had no money. Fox had no money; the bank had surrendered the last £845 of the Company's balance to pay the men.⁶⁸ Colonel Wakefield made arrangements with the storekeepers to supply some provisions on the Company's uneasy credit;⁶⁹ Sinclair started a fund for relief, and showed confidence in Governor

62. Exam, 31 Aug 1844.

63. Ward, Journal, 2, 3 Sep 1844.

64. See below, pp. 106-7.

65. Barnicoat, Journal, 18 Sep 1844.

66. Ibid., 12 Sep 1844; Bell, Circular Letter No. 2, 17 Sep 1844, LS, 1844-48, Bett.

67. Exam, 6 Jan 1849.

68. WW to Sec. NZC, 5 Sep 1844 (No. 12), NZC 3/14.

69. Fox to WW, 2 Oct 1844, NZC 3/14.

Fitzroy by contributing £10 on his behalf. But it was beyond the power of the community to maintain such a number. "All the means of the settlers are not sufficient for long to supply the place of the company as employers of this vast amount of super-abundant labour", said John Barnicoat. "In reply to the oft-repeated question 'What is to be done' the general reply seems to be 'Wait till the Governor comes....".⁷⁰ The Company had assiduously fostered a dependency relationship with its settlers⁷¹ and when it failed them they looked for a substitute. That they did not immediately transfer their allegiance to the government, leaving Fox a lonely nanatuk in a clerk's role, was because the government was not prepared to accept them. The Governor never did come. £100 was all the relief they ever got.⁷² Relief was not the answer anyway, said Fox, and the "crying evil" of the public works would not be revived. "The true source and secret of strength is self-reliance. Trust to nothing else...."⁷³ It was good advice, for there was little else, except acres of fern and a few seed potatoes; and so they survived the summer.⁷⁴

Although he had not saved the settlement from hard times, Fox had undeniably done much through his half-week scheme to make those times as short as possible; the worst of the crisis was over by the early months of 1845, when spring-sown crops came in.⁷⁵ For the less prudent men who had not taken leases Fox did what he could by allowing

70. Barnicoat, Journal, 23 Sep 1844.

71. Turnbull, Colonisation of N.Z. p.325.

72. "Petition to Parliament from the Inhabitants of the Southern Settlements of New Zealand," NZC 20th Report, App. No. 10.

73. Exam, 14 Dec 1844.

74. See Allan, Nelson, pp.303-5.

75. Pratt, p.64; Bell, Circular Letter No2, 17 Sep 1844, No. 3, 10 Apr 1845, LS, 1844-48, Bett; Allan, Nelson, p.365.

them to squat on whatever land they thought worth cultivating.

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The agent's measures were well received by the unruly labourers. "Mr. Fox had the pleasure of seeing an entirely new spirit come over the majority of these rioters," recalled one settler, "and they ever after treated him as their trusted friend and adviser".⁷⁶ William Pratt took time off from recounting his Colonial Experiences "to tender my humble tribute to the kindly interest taken by Mr. Fox, the Company's agent, in anything and everything likely to assist or improve the position of all the Company's employe's who showed an earnest desire of rendering themselves independent of such assistance by cultivating their land".⁷⁷

Fox warmed towards the labourers. In Wellington he had castigated their restless stirrings as the actions of the "no education class" which was so lost to sense of right and wrong as to threaten private property.⁷⁸ In Nelson he registered a change, in himself probably, but one he naturally enough attributed to the labourers and the effect of the colonial environment. "The natural facilities are sharpened," he wrote, "the labourer ceases to be a 'bumpkin', and the titles of 'clod-hopper', or 'moon-raker', loose their appropriateness."⁷⁹ He was impressed by the cheerfulness with which they faced hardship and their devotion to each other and their little farms. He sympathised

76. Saunders, p.55.

77. Pratt, p.73.

78. NZCWS, 1 Feb 1842.

79. Fox to WW, 6 Jul 1848, NZC 3/18.

with them: they had been led to expect better things of New Zealand and, like himself, had "some grounds for dissatisfaction".⁸⁰

This discovery of labouring virtue came as something of a revelation, of which the impact diminished as the experience itself receded in time. His belief in democratic government was confirmed, but he was not converted to an egalitarian outlook; nor did he always deal with labourers so kindly and, indeed, had more than one reason for speaking well of those in Nelson. He said they were the best people to carry civilisation to the Maoris, so may have exaggerated their courage, faith and kindness for the benefit of Exeter Hall.⁸¹ He had also to persuade the directors of the New Zealand Company the men were worthy stock from which could bud a new colonial aristocracy.

The plan to settle near-destitute working men on land of their own was viewed with alarm by the Company directors, who found it difficult enough already to sell dear land, and with hostility by the absentee owners, who had paid good money for what the impecunious seemed now able to get for nothing. In the early months of 1844 Fox learned that such schemes had been condemned by the directors after news that labourers at New Plymouth had been given free possession of quarter-acre town sections caused an uproar amongst the absentees in England.⁸² This bolt from on high came at a critical time for Fox, whose half-week system was consuming money at an alarming rate and had achieved only modest success. It took some courage to press on. But he resented the parasitic absentees who hoped to profit from the endeavours of others⁸³ and had already concluded that it had "become necessary to

80. Fox to WW, 1 Nov 1843, NZC 3/13.

81. This is especially so in the published letter, Fox to WW, 6 Jul 1848, NZC3/18.

82. Sec. NZC to WW, 26 Oct 1843, enclosing W. Bridges to Sec., 23. Cont'd next page.

depart very far from the principles upon which the colonization of New Zealand was undertaken....".⁸⁴ Against critics who accused him of establishing a cottier population, he pointed out that none of the conditions which made small-holding an evil in Ireland or England existed in the colony.

And I would observe that in any new Colony, even where capital is most abundant, small holdings will undoubtedly prevail to a considerable extent; for where land is cheap and good, the British agricultural labourer will always, at as early a day as possible, invest his savings in the cultivation or purchase of it.⁸⁵

That labourers easily became landowners, depriving the colony of a work force and dispersing settlement, was fixed on by the systematic colonisers as the fundamental evil in the cheap-land colonies.⁸⁶ The sufficient price was designed to correct this evil, but through his generous terms to the labourers Fox neutralised its effect. Like most of the Company people he eventually came to admit its "absurdity",⁸⁷ but in Nelson, while disregarding it in practice, he continued to expound the beauty of the theory. He filled columns of the Examiner affirming his belief in the "artificial, elastic boundary, expanding continually with the increasing quantity of land absolutely required....";⁸⁸ he offered the defence of the Wakefield system which has now become classic: it had never been properly tried. Nothing had occurred, he said, which

Cont'd from Page 88: Sep 1843; NZGWS, 22 Apr 1843.

83. NZGWS, 4, 8 Mar 1843.

84. Fox to WW, 1 Nov 1843, NZC 3/13.

85. Fox to WW, 6 Jul 1848, NZC 3/18.

86. E.G. Wakefield, England and America, pp. 314 ff.

87. Fox to Godley, 31 Dec 1856, Canterbury Papers, Letters to Godley, Vol. 3.

88. Exam, 2 Nov 1844.

has "in any way justified a doubt in the soundness of the principle in question,...."⁸⁹

It would be wrong to interpret this defence as merely doing his duty by the Company. The sufficient price was a means to the end of a landed aristocratic society, and whatever Fox thought of the means he was in full sympathy with the end. He rested the defence of his labour policy almost entirely on the prospect that the small-holder would buy more land and become a great landed capitalist, which he was allowed to do under the Wakefield system provided he first laboured long for others. Fox said his system somewhat accelerated the development but "still it is in its result the same". Against this Algionby⁹⁰ minuted: "The results are not the same - [the labourer] gains his status too soon."⁹¹ For what was to be the effect on polite society when labourers became lords of a territory? Were "modes and manners... to flow upwards to, instead of downwards from, their proper source?"⁹² To be consistent, Fox had to represent his labouring farmers as potential gentlemen.

In Nelson he was encouraged to think they were because of the dutiful deference which they showed towards him. He always regarded them with a special affection; before he left the settlement he urged that the Company, now once more engaged in emigration, should make provision for labourers to take up small leases with right of purchase from the time they first arrived in the settlement,⁹³ and designing the pas-

89. Exam, 26 Oct 1844.

90. H.A. Algionby, then governor of the NZC.

91. Fox to WW, 26 Dec 1846, NZC 3/17.

92. E.G. Wakefield, A Letter From Sydney, p.51.

93. Fox to WW, 17 Apr 1848, NZC 3/18.

turage regulations for Nelson he supported Jollie's idea of keeping the Waimea hills as common grazing for the small farmers.⁹⁴ He found genuine satisfaction in watching the small settlers advance, but at the same time his relations with them were characterised more by magnanimity than equality. There was some truth in Nelson mutterings that he courted popularity among the small folk.⁹⁵ Certainly when he left his domain at Nelson, and the labourers he may have come to regard as "his", he revealed a more severe countenance.

In 1849, for example, he received a petition from labourers at Otago asking for a reduction in working hours and an increase in wages so they might have the leisure to build their own homes. The Otago men were working a fifty-five hour week for 18s,⁹⁶ the same as men in Nelson had been when Fox arrived there in September 1843.⁹⁷ The price of flour was very high in both instances, £22 per ton in Otago and about £24 in Nelson.⁹⁸ There the parallels end. Not only was he unsympathetic to the Otago petition but, according to McIntock, "decidedly hostile". He told the men how well off they were compared to what they had been in Scotland, although as far as being brought out on false pretences was concerned the Otago men had as much reason for complaint as those in Nelson. He bade them be self reliant; and then sailed away to Wellington, leaving his subordinates to execute his

94. Fox to Jollie, 8 Dec 1848, NZC 3/18.

95. Saxton, Diary, 10, 14 Jan 1846, 12 Jan 1847.

96. A.H. McIntock, The History of Otago, p.250; T.M. Hocken, Contributions to the Early History of New Zealand, p.299.

97. Fox to WW, 1 Nov 1843, NZC 3/13.

98. Hocken, Contributions, p.299; Tuckett to WW, 30 Aug 1843, LS, 1843, Bett.

offensive "proclamation", not even published until he had gone,⁹⁹ stating that hours would stay long and wages low.¹⁰⁰ Fox appeared to respond more to the rights of common men when they were under his direct patronage and able to show due "respect, obedience and regard".¹⁰¹ His attitude to squatters underwent a similar hardening after he left Nelson.

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Squatting spread rapidly after the suspension of the Company in August 1844 and by late 1845 there were almost as many squatters as labourers holding leases.¹⁰² Even the police magistrate, who said he had been converted from Whig views to a belief in despotism by the experience of three hundred squatters,¹⁰³ sought to join them.¹⁰⁴ Landowners like Francis Otterson and Duppa were squatters.¹⁰⁵ But most were artisans who occupied town sections and divided their time between their trade and cultivation. The landowners did not want these 'mechanics' as farm workers and Fox thought it was "really not doing any harm that I can discover", to allow them land. He professed a sterner attitude to those on rural lands, but did nothing about them either. He told the directors he had done all in his power, but the

99. According to Hocken's chronology, Contributions, App. G, p.299, Fox's reply was not published until 24 Feb 1849. He was back at Port Cooper on the 22nd, Torlesse Papers, p.49.

100. McLintock, Otago, p.250; Hocken Contributions, p.103, 299.

101. Exam, 31 Aug 1844.

102. Saxton, Diary, 24 Jan 1846.

103. Ibid., 7 Dec 1846.

104. Sinclair to Fox, 13 Sep 1845, NZC 208/4.

105. Saxton, Diary, 12 Nov 1846, 17, 18 Jun 1847.

unsatisfactory state of the title made it impossible to evict them.¹⁰⁶ In fact he had studiously avoided doing anything. When Saxton tried to get his help to evict a couple from "Dendy's acre" Fox raised legal difficulties. He promised to consider the question further and meet Saxton the next day, but he did not keep the appointment, nor send an apology; instead he rode off up the Waimea, well clear of Dendy's little acre. Saxton waited four hours and was exceedingly angry at the snub; the landowners, he said, were "being trod upon by rising lower classes".¹⁰⁷ His indignation was echoed from all sides: Francis Jollie, who was constantly plagued by squatters, said he intended to petition Governor Grey; Stafford was going to see Colonel Wakefield.¹⁰⁸

Wakefield had his own crude method of dealing with squatters in Wellington, which was to pull down their buildings and tell them to take their remedy at law.¹⁰⁹ When he came to Nelson late in 1845 he was appalled to learn from Sinclair's official census that the settlement had 300 small tenant farmers and 250 squatters. He must have given the local agent a sharp prod for Fox suddenly became as muscular as a pantomime tyrant and promised "to launch a thunderbolt at the squatters".¹¹⁰ A notice in the paper warned them that from March 1st they would have to pay £5 per acre or be ejected.¹¹¹ Four days later he boasted to Saxton that 150 squatters had signed agreements;¹¹² eleven months after this he informed the directors that his notice had been

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106. Fox to WW, 26 Dec 1846, NZC 3/17; Fox to editor Exam, 17 Jan 1846.
 107. Saxton, Diary, 16, 17, 18 Oct 1845, 29 May 1847.
 108. Ibid., 22 Feb, 8 Apr, 14, 16 Nov 1846, 12 Jan, 15 Dec 1847.
 109. Ibid., 10 Sep 1845, 14 Jan 1846.
 110. Ibid., 14 Jan 1846.
 111. Exam, 10, 17 Jan 1846.
 112. Saxton, Diary, 21 Jan 1846.

"entirely without effect".¹¹³ When in July 1847 it was rumoured that the crown law officers had received instructions to take action against squatters, Fox was once again full of bombast, ready, he said, "to pounce on some of the ringleaders".¹¹⁴ Again nothing was done. If squatting decreased after 1847 it was because times were getting better and there were more rewarding ways for a tradesman to spend his time than grubbing around in the Wakapuaka swamp, where most of them were. Fox took no known steps to evict a single squatter.

The distinction between squatters and leaseholders was rather more clear in principle than practice and was certainly not clarified by Fox's ad hoc administrative methods. To take one example of which some record remains: in 1843 he leased to John Kerr a fifty-acre section which was later sold by the Company to J.S. Tytler for £300. Tytler was assured by Fox that Kerr's lease contained no purchasing clause. Kerr, however, later claimed the right to buy the section for £250 and in support of his claim produced not the lease, but a letter from Fox giving him the right of purchase during the currency of the lease. To complicate the matter further, Kerr had other letters from Fox promising not to raise his rents - which rents were payable now not to the Company but to Tytler, who had known nothing of such a promise.¹¹⁵ Kerr was no labourer but one of the best farmers in Nelson;¹¹⁶ Fox's numerous informal arrangements with the

113. Fox to WW, 26 Dec 1846, NZC 3/17.

114. Saxton, Diary, 3, 14 Jul 1847.

115. J.S. Tytler to D. Monro, 26 Dec 1854, Letters to Monro.

116. Allan, Nelson, p.206.

smaller fry never reached the offices in London, or even Wellington.¹¹⁷ Counting the leaseholders, whose title was as precarious as that of squatters and whose rents were largely fiction,¹¹⁸ some five hundred families had no more security in their land than the agent's word.

Fox enjoyed his seigniorship but he took the responsibility seriously; on the occasions he was compelled to adopt a tough public attitude, he countered it by assuring various people they would not be disturbed in their cultivations.¹¹⁹ When he left Nelson he seemed to care less. He gave his successor, Francis Jollie, a landowner with long experience and detestation of squatters,¹²⁰ full support to secure an ordinance which gave "direct and summary powers of ejectment" to the Justices of the Peace.¹²¹ But by June 1849 when Jollie was equipped according to his desires, squatting had served its purpose. It had helped the poor to survive the difficult years and it had brought new land into cultivation. In his discreet promotion of it, Fox had elevated the needs of humanity above the niceties of legality, and the needs of the settlement above those of the Company.

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When Fox first introduced his high piece-work rates the immediate effect was that relief expenditure at Nelson shot up from £1000 per

117. *Ibid.*, p.203.

118. Bell, Circular Letter No. 3, 10 Apr 1845, LS, 1844-48, Bett.

119. Jollie to Fox, 12 Mar, 23 Mar 1846, NZC 208/5, 10 Mar, 7 Apr 1848, 208/7; Saxton, Diary, 8 Apr, 14 Nov 1846.

120. Saxton, Diary, 21 Jan 1846; *Exam*, 17 Jan 1846.

121. Jollie to Fox, 1 Feb 1849, NZC 104/5; Fox to Jollie 19 Jun 1849, enclosed in Fox to Sec. NZC, 21 Jun 1849, NZC 3/19.

month in August 1843 to £1300 in January 1844, and the number of men receiving it from about 300 to 330;¹²² despite departures and dismissals he had improved little on these figures when the Company stopped operations. Some thought his spending reckless; it was rumoured in July 1844 that all the Company's money had gone and Fox was waiting for the Colonel to come and tell him what to do next.¹²³ The Colonel had been telling him what to do for a long time: "to commence a reduction of the general expenses of the Company in the settlement, and, at the same time, to induce occupation of the land by the labouring classes".¹²⁴ It was quite impossible for Fox to do these things "at the same time", but he never said so directly. Instead, he used all the tricks of the diplomat to exaggerate both his difficulties and his successes. He put a high estimate, £1500 per month,¹²⁵ on the cost of the public works so that his actual expenditure of £1000-1300 looked almost like a saving; the impression was heightened by genuine but relatively trifling economies effected in the Nelson agency by the dismissal of storekeepers and boatmen.¹²⁶ He painted a more optimistic picture of labourer occupation of land than was warranted.¹²⁷ He used the real danger of labourers leaving the colony to justify the caution with which he proceeded against those on day work,¹²⁸ and he was not above intimating that he found the job disagreeable and that resignation would cause him no anguish.¹²⁹

122. Nelson estimates for Aug 1843, Jan 1844, NZC 104/3.

123. Saxton, Diary, 30 Jul 1844.

124. WW to Fox, 8 Nov 1843, GBPP, 1844, No. 556, App., p.741.

125. Fox to WW, 19 Dec 1843, Ibid. p.429.

126. Fox to WW, 1 Jul 1844, NZC 3/14.

127. Fox to WW, 9 Jul 1844, NZC 3/14.

128. Ibid., Fox to WW, 27 Jan 1844, NZC 3/14.

129. Fox to WW, 7 Oct 1843, LS, 1843, Bett.

The labour problem seemed too big for the Colonel, who let his agent have his way; but he pecked away at more vulnerable, if less significant, aspects of Fox's attempt to make the settlement viable. The fort drew the first volley against unauthorised expenditure;¹³⁰ others followed when Fox advanced £150 to a settler who had been burnt out of his home¹³¹ and entered into arrangements with flax producers and inventors of machinery to act as their merchant and financier.¹³² With the cynicism of a man who had seen everything tried and everything fail, the Colonel told Fox that the contraption of Jonas Ryder which he was financing would never work and was to be supported no longer.¹³³ Fox disregarded the instructions and contributed more money to Ryder, until the sum invested by the Company topped £200. Given a categorical command to desist, he then reached into his own pocket and advanced another £100.¹³⁴ The right way to process flax was the philosopher's stone which would provide an export commodity and transform the swamps into the "mines of Peru",¹³⁵ and Fox felt Ryder's machine was too important to the colony to be jeopardized by lack of funds. He called a meeting of the settlers and induced a number of them to guarantee Ryder both capital and market by buying in advance whatever flax he might eventually produce.¹³⁶ He must have been most persuasive; but

130. WW to Fox, 8 Nov 1843, GBPP, 1844, No. 556, App. pp. 740-1.

131. WW to Fox, 26 Jan 1844, NZC 3/14.

132. Nelson estimates for Jan 1844, enclosed in Fox to WW, 19 Dec 1843, NZC 104/3.

133. WW to Sec. NZC, 26 Jan 1844, NZC 3/14; WW to Fox, 28 Jun 1844, NZC 203/3.

134. Fox to WW, 11 Jan 1844 (No.44), NZC 3/14.

135. NZGWS, 31 Dec 1843.

136. Exam, 15 Jun 1844.

John Saxton was not convinced by Ryder's vague calculations¹³⁷ and luckily had no share in the hopeless debt left behind by the inventor when he departed the colony about 1846. The Company was let in for well over £200,¹³⁸ and Fox personally lost "a good deal",¹³⁹ as he did also in his flour mill promotion.

In June 1844 he signed the prospectus for the Nelson Flour Mill Company,¹⁴⁰ a joint stock enterprise with a capital of £500 in £1 shares; £400 of it subscribed immediately. Hopes that it would keep at least £1500 a year in the settlement¹⁴¹ turned sour as the mill ground erratically on, producing inedible grits and unpalatable losses.¹⁴² Fox was chairman of the first board, but hoped, vainly, that he would be left off the second altogether.¹⁴³ His interest revived a little when it was decided to lease the mill; the rental, and therefore the dividend on the shares, was determined on throughput which Fox blandly set down at 12,000 bushells a year, an estimate about forty per cent more optimistic, or more greedy, than that of his colleagues.¹⁴⁴ The mill involved him in innumerable meetings with little reward; by 1846 the shareholders had lost about £200 in interest.¹⁴⁵

Free-trade slogans and the principles of laissez faire were never much out of his reach¹⁴⁶ but Fox's expenditure of public money in an

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- 137. Saxton, Diary, 18 Jun 1844.
 - 138. £221.15.4, Jollie to Fox, 16 Apr 1849, NZC 104/4.
 - 139. Saxton, Diary, 12 Aug 1845.
 - 140. Ward, Journal, 1 Jun 1844.
 - 141. Bell, Circular Letter No. 1, 10 Jun 1844, LS, 1844-48, Bett.
 - 142. Saxton, Diary, 17 Nov 1845; Ward Journal, ? Aug 1845.
 - 143. Saxton, Diary, 31 May 1845.
 - 144. Saxton, Diary, 3, 4, 9 Sep 1845.
 - 145. Ibid., 19 Sep 1846.
 - 146. NZGWS, 7 Jan, 11 Feb 1844; Saxton Diary, 18 Sep, 13 Oct 1845.

attempt to establish industry showed that he believed also in the use of executive authority where this might prove beneficial to the whole community. Dualism of this sort, which faced one way towards an economic free-for-all and another towards support and regulation, is apparent in the writings of all the classical economists,¹⁴⁷ from whom Fox derived his educated opinions. As the frontier of urban industrialism made the intervention of government necessary for the greatest happiness of the greatest number in England, so the frontier of settlement made it necessary in the colony. It was a Wakefield maxim that new colonies needed much government¹⁴⁸ and much capital. Fox did his best to provide both of these and the funds he used were, after all, expressly tagged for expenditure in a way "directly conducive to the prosperity of an infant settlement".¹⁴⁹ Fox's establishment of a weekly market in Nelson¹⁵⁰ could be considered part of his duties, but whether the Company thought these extended to the launching of co-operative stores for working-men can reasonably be doubted. Fox was concerned to reward those labourers who worked hard on their plots and showed a genuine desire to be independent of the public works. When a group at Riwaka complained of the expensive and irregular deliveries from Nelson, Fox advanced them stores equal to two months wages per man, and transported

147. See L. Robbins, The Theory of Economic Policy in the English Classical Political Economy, London, 1952.

148. E.G. Wakefield, Art of Colonization, pp. 211-12, cited by Turnbull, Colonisation of N.Z., p.51.

149. Somes to Ld. Stanley, 18 Jul 1842, NZC 12th Report, App. C, p.119.

150. Exam, 17 May 1845.

These to Riwaka free of charge in the Company's boat. He himself agreed to act as treasurer for what must have been the first co-operative ever established in New Zealand. The experiment proved a great boon to the men, although it did not survive the suspension of the Company. The debt survived longer;¹⁵¹ but if the Company lost money through the co-operative the Company's agent gained a good deal in the estimation of the settlement.

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These were happy times for the Foxes. The agent enjoyed public esteem for his satisfactory settlement of the labour problem, energetic prosecution of the "campaign" against Paremata and endeavours to advance the prosperity of the settlement. He had, said Dillon, "under the most trying circumstances, given universal satisfaction".¹⁵² He filled the various offices which the settlement's leading figure should - foreman of the grand jury,¹⁵³ president of the Literary Institution¹⁵⁴ and of the Agricultural and Horticultural Association (winning first prize for his artichokes).¹⁵⁵ His white silk waist-coat, becoming more taut now across an expanding front, made a solid and comforting appearance at all the balls and dinners with which Nelson society affirmed its gentle origins.¹⁵⁶ The Foxes began to think seriously of

151. Pratt, pp. 74-92. See Allan, Nelson, pp. 357-9 for a concise account. The debt was still outstanding in 1849, Jollie to Fox, 16 Apr 1849, NZC 104/5.

152. Exam, 21 Sep 1844, 28 Apr 1845.

153. Saxton, Diary, 1 Oct 1844; Exam, 5 Oct 1844.

154. Saxton, Diary, 20 Jun 1844; Exam, 12 Jul 1844.

155. Saxton, Diary, 30 Jul 1845; Exam, 7 Dec 1844, 5 Apr 1845.

156. Saxton, Diary, 8 Apr 1845, and passim.

making Nelson their permanent home. They bought a pair of horses and were, said Sarah, set on enjoying themselves.¹⁵⁷ But the joy was not long-lived; for beneath the surface rancour already ran deep.

157. Saxton, Diary, 2 Jan 1845.

CHAPTER 6.CHOOSING PARTNERS

Complaints about the agent's policy began at the very outset. Tuckett had thought Captain Wakefield's offer of piece-work at 6d. per cubic yard "very high"¹ and did not dare comment on Fox's rates because he believed he would be assassinated;² but he wrote bitterly in private about the new agent's lavish spending on the labourers.³ He found men who shared his discontent and with them formed in January 1844 the Association of Original Landholders.⁴ The association's principle objective was to prevent the Company disposing of land except in whole allotments, and for ready money. "The practice pursued in this settlement during the past year", reported the committee of the association, "has... been to dispose of sections, and of small portions of sections, on long-deferred credit, to the immigrants introduced by the proprietors fund; thus creating a cottar community in opposition to the Wakefield system of colonization". The landowners were not getting cheap labour; indeed, while their capital was sunk in land often worthless or unavailable, others, with no capital, were getting picked portions on very favourable terms.⁵ The objections were reasonable, the objectors too often unreasonable. The leaders

1. Tuckett to WW, 25 Jul 1843, LS, 1843, Bett.

2. Tuckett to Fox, 29 Oct 1843, NZC 208/2; Saxton, Diary, 15 Sep 1843.

3. Tuckett to his brother, Francis Tuckett, 7 Jan 1844, LS, 1844-48, Bett.

4. Saxton, Diary, 11 Jan 1844.

5. Exam, 30 Mar 1844.

were Tuckett himself and John Beit, the cantankerous leader of the German immigrants.

Samuel Stephens thought Tuckett a little unhinged by his recent experiences.⁶ The appalling carnage of the Wairau followed by frightening encounters with the labourers turned him suddenly against New Zealand as a country fit for colonisation⁷ and the New Zealand Company as an authority fit to colonise it.⁸ When Fox cautioned him about the expenses of the survey he flashed in his resignation as chief surveyor, declaring the caution implied a want of confidence.⁹ The two men were never reconciled, although Fox usually made it up with people as readily as he fell out with them. Beit was, from all accounts, something of an ogre.¹⁰ He bullied his own people and harassed the agents. He had once already out-foxed Fox by building a wharf on land he did not own¹¹ and his leadership of formed opposition signalled a showdown. When he asked Fox to employ a German labourer on the half-week system he so vehemently condemned, Fox demanded more information about the man - for whom had he been working, where, and for what money? Beit declined to answer such "impertinent questions" and said the man was sent on his authority, which was sufficient. Fox returned his letter without reply, which Beit rightly interpreted as "an intended and gratuitous insult". This second letter Fox also returned unanswered, but sent a note through Jollie that, since Beit had used

6. Stephens to his mother, 3 Sep 1843, Letters and Journal.

7. Barnicoat, Journal, 11 Nov 1843.

8. Tuckett to Fox, 30 Jan 1844, NZC 208/3.

9. Tuckett to Fox, 16 Dec 1843, NZC 208/2.

10. See Allan, Nelson, pp. 313-19.

11. Long correspondence enclosed in Fox to WW, 5 Nov 1847, NZC 203/6.

terms which no subordinate officer could use to his superior, he was dismissed as immigration officer for the German colonists.¹² Beit then had recourse to the directors,¹³ but, as usual, they stood behind the local agent.¹⁴

Another of the malcontents was Phillip Valle, the pathetically pompous superintendent of public works.¹⁵ Fox knew Valle's job was difficult. He gave him an assistant, and when Colonel Wakefield quashed that extravagance, gave him forage money for a horse instead.¹⁶ He had nothing against Valle, but he expected him to do his work. When, early in February 1844, Brown's gang had no road marked out for them and consequently did nothing for a whole week, the agent called his superintendent to an interview in the "inner office".

"Mr. W. Fox receiving Brown's pay list from me, turned half around in his seat; looked up at me with knitted brows from the corner of his eyes; compressed his lips; swung the pay list up and down with his right hand, whilst his elbow rested on the table; and crossing his legs jerked [sic] about one of them". Valle explained that he had felt it incumbent on a subject, gentleman and landowner to attend Governor Fitzroy's levee, after which a flooded river prevented him returning to the gang. A long argument followed; then Fox said: "I cannot allow that you had anything to do with the Governor and I shall not pay this." Whereupon Mr. W. Fox threw the pay list on the

12. Fox to WW, 4 Jun 1844, enclosing the correspondence with Beit from 25 May - 3 Jun 1844, NZC 3/14.

13. WW to Fox, 27 Feb 1844, NZC 203/2;

14. WW to Fox, 21 Feb 1845, NZC 203/4. Beit, however, eventually got his revenge on the Company, if not on Fox. See Allan, Nelson, p.231.

15. For his unhappy encounter with the labourers see Allan, Nelson, pp.278-9.

16. Fox to WW, 15 Mar 1844, NZC 104/4.

table, as he ceased to swing his hands about." Valle resigned; Fox eventually did pay the gang. The pointed references to "Mr. W. Fox" arose because Fox failed (quite unintentionally, he said) to address Valle as "Esquire", as befitted a man with a long record of service in the East India Company. Valle was extremely indignant "at receiving such treatment from one who is so much my junior, and of whom, except as your Agent, I never heard anything. He is no land-owner. He has suffered nothing from the settlement like myself who landed here with a wife and six children when there was no shelter for them." He appealed to the directors for redress, as being a more honourable course than that "which is usually resorted to for correcting a deliberate affront...."¹⁷ What, with one agent going in fear of assassination and another narrowly escaping a duel, Fox was justified in thinking the Nelson office "no sinecure".¹⁸

Although Valle protested that since Fox had come the interests of the settlement had been "sacrificed to factions, purposes [sic] and Jacobinical principles",¹⁹ the agent had little to fear from the eccentricities of the Association of Original Landholders as long as he retained the support of the more reasonable majority. He lost some of this through his management of the exchange system.

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The practice of exchanging worthless sections for better ones,

17. Valle to Directors NZC, 30 May 1844, enclosed in Fox to WW, 22 Jun 1844, NZC 104/4.

18. Fox to WW, 7 Oct 1843, LS, 1843, Bett.

19. Valle to Directors NZC, 30 May 1844, enclosed in Fox to WW, 22 Jun 1844, NZC 104/4.

or scattered ones for consolidated ones, had begun before Fox came to Nelson and was continued by him as a sensible and obvious policy. The directors, however, were concerned lest it disrupt their system of selling land, which was their main interest, and frightened of hostile absentee reactions, and in March 1844 Fox received instructions that no further exchanges were to be granted without their prior consent. He objected strongly; there was not enough good land in Nelson to satisfy the original scheme, he said, and it was important that the agents should have the power to see resident purchasers got good sections from those still unsold. He said he would do as he was told; but clearly he intended to conclude certain negotiations for exchanges into which he had already entered.²⁰ In fact, both agents seemed to ignore the directors' instructions and the number of exchanges multiplied.²¹ The Colonel thought that because the directors had agreed to an exchange in one instance "therefore it was a precedent and the principle acknowledged by them".²²

The purpose of exchanging was to get land which could be brought into cultivation, which meant employing labour, so that encouragement of the practice by the agents was part of the plan to end the Company relief. Fox made it a condition that cultivation began immediately. Sometimes this was agreed informally,²³ sometimes written into a pledge "to fence and have the whole in crop within two years from this date".²⁴

20. Fox to WW, 4 Mar, 11 Jun 1844, NZC 3/14.

21. Saxton, Diary, 30 Aug 1844; Barnicoat, Journal, 28 Sep 1844; S. Brees to WW, 3 Dec 1844, NZC 3/4.

22. Ibid., 2 Sep 1844.

23. Ibid., 30 Aug 1844, 18 Jul 1846.

24. Morrison and Selanders to Fox, 18 Sep 1844, NZC 208/4.

The pledge was unrealistic, as was pointed out to him, for anything could happen in two years;²⁵ but it was intended only to drive occupiers to greater efforts and he was never sever where such efforts had been made.²⁶ The plan seemed to be working well before the Duppa exchanges wrecked it.

George Duppa owned a lot of inaccessible land in Wellington, which he left for Nelson where he leased a section from the Company and very quickly had it under cultivation. In April 1844 he asked to exchange his Wellington sections for 800 acres contiguous to his present Nelson section.²⁷ After the suspension of the Company Colonel Wakefield and Fox agreed to the exchange, to the extent of 750 acres, provided Duppa employ another twenty labourers and have the land broken up within eighteen months.²⁸ As a result of this, Duppa found himself the centre of a storm of settler protest. The core of their complaint was that consolidation of the settlement was going to be necessary because there was not enough good land and in the circumstances the original Nelson purchasers should have first claim.²⁹ Duppa thought it "mean and paltry".³⁰ Fox thought it was a weighty objection, but he hoped the landowners would let the matter slide as Duppa was such an enterprising capitalist.³¹ When they did not do so he clamped down on all exchanging, even abrogating arrangements to

25. H. Seymour to Fox, 20 Sep 1844, ibid.

26. Saxton, Diary, 18 Jul 1846.

27. Jollie to WW, 18 Apr 1844, NZC 3/14; Duppa to WW, 4 Sep 1844, ibid.

28. WW to Sec. NZC, 5 Sep 1844, NZC 3/14; Exam, 21 Sep 1844.

29. Exam, 21 Sep 1843; Monro to WW 17 Sep 1844, NZC 3/14; Saxton, Diary, 13 Sep 1844.

30. Duppa to WW, 16 Sep 1844, NZC 3/14.

31. Fox to WW, 24 Sep 1844, LS, 1844-48, Bett.

which he had previously given verbal agreement.³² This may have been a sort of disciplinary measure against his rebellious subjects; on the other hand, now that the agents for absentees were seeking exchanges, and requests were made for unsold lands which were possibly being at the same time purchased in England,³³ the whole system was getting a little out of hand and he may have taken the opportunity to close it down. Whatever the reason, and however partial the closure, it was not well received. Fox was hit by a barrage of requests to exchange,³⁴ one urging haste as the "unsold sections are being fast taken possession of by the labouring migrants".³⁵ The agent who had been fostering these interlopers was now accused of having other favourites. Monro charged that the whole policy had been conducted in a corner so that he had not known what could be had until after it could be had no longer.³⁶ This was certainly nonsense: Monro had chaired the Duppa protest meeting;³⁷ but there was more truth in the complaint of the unfortunate Valle that sections which Fox had declined to give him had afterwards been given to John Saxton.³⁸ And it certainly did not go unnoticed that the Company's agent who had helped conclude the Duppa arrangement, was in May 1845 said to be in partnership with Duppa,³⁹ in September 1845 owned five hundred sheep which were running on the sections acquired by Duppa in the exchange agreement,⁴⁰

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32. Bell to Directors NZC, 29 Sep 1844, NZC 3/14; Saxton, Diary, 7 Oct 1844.
 33. Rox to WW, 2 Oct 1844, NZC 3/14.
 34. In NZC 208/3.
 35. J.F. Wilson to Fox, 1 Oct 1844, NZC 208/3.
 36. Monro to Fox, 11 Nov 1845, NZC 208/4.
 37. And was the noisiest protester, Saxton, Diary, 13 Sep 1844; Exam, 21 Sep 1844.
 38. Valle to Sec. NZC, 17 Oct 1844, NZC 208/3; Saxton, Diary, 17 Oct 1844.
 39. Saxton, Diary, 17 May 1845.
 40. Ibid., 23 Sep 1845. The sheep for Fox were unloaded from the "Comet" on 16 Sep 1845. He paid £1 per head for them. Ibid., 16 Sep 1845.

and in March 1846, without giving any sort of public notice, leased the entire Wai-iti Valley to Duppa for grazing stock.⁴¹

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His decision to become a pastoralist was a reflection of Fox's dissatisfaction with his employers. Broad Street had not taken him into account when deciding to suspend operations - it was Fox who had to deal with the three hundred near-destitute labourers, Fox who sustained the embarrassing barrage of repudiated Company bills which followed the suspension.⁴² He found the constant suspense as to what the Company intended very irksome⁴³ and seemed "pleasurably excited" when there seemed more reason than usual to believe the rumours about impending dissolution.⁴⁴ Reprimanded by the directors for engaging in private speculations, he told them that if they thought pasturing sheep "incompatible with the duties of their Agent I must consider how far it will suit my circumstances to continue my present engagement under the Company". He was not prepared to give up the sheep, he said, because they were all he had to fall back on when his Company office came to an end.⁴⁵ As he was at this time confirmed in the Nelson agency and been

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- 41. The lease actually covered only three unallotted sections, but these ran across the mouth of the valley and gave effective control of all the back land as well, Saxton, Diary, Mar-Apr 1846, *passim*.
 - 42. The dishonoured bills which came back to Nelson amounted to several thousand pounds and caused a good deal of hardship, as well as legal actions and general unpleasantness. Correspondence mainly in NZC 208/3 and /4, Dec 1844 - Apr 1845.
 - 43. Fox to WW, 15 Mar 1847, NZC 104/4; Saxton, Diary, 18 Sep 1845.
 - 44. Saxton, Diary, 3 Nov 1846. The rumour on this occasion was based on the NZC 20th Report.
 - 45. Fox to WW, 15 Mar 1847, NZC 104/4.

granted the reversion of the principle agency as well,⁴⁶ his letter does not suggest the Company had a glorious future. "Mr Fox," said John Saxton," was a man who would always have station and would not be extinguished by the dissolution of the Company...."⁴⁷ He certainly did not intend to be. As the Company waned (and he had doubts about it, after the 1844 suspension),⁴⁸ he attempted to broaden the base of his power by mobilising settler support. He hoped to convert the petty despotism of the agency into a sort of popular government - in many ways his constitutional agitation in Wellington from 1849 to 1851 was a continuation of this attempt. He suggested the agent be elected by the settlers,⁴⁹ or act on the advice of an elected council;⁵⁰ when Colonel Wakefield showed some hesitation in meeting demands on the land question Fox told Elliot he was thinking of repudiating his superior and assuming an independent position in Nelson.⁵¹ The settlers did not respond with enthusiasm to these suggestions; it was, indeed, more than a little naive of Fox to hope to be accepted as their leader while he retained the £500 per annum the agency paid⁵² and exercised authority in a semi-secret manner as though

46. WW to Fox, 16, 17 Apr 1845, NZC 203/4; NZC 19th Report.

47. Saxton, Diary, 26 Nov 1846.

48. Although Colonel Wakefield said the news that the House of Commons select committee of inquiry into New Zealand had brought in a report favourable to the Company caused a "sensation in Wellington Fox's reaction in Nelson was decidedly cautious. GBPP, No. 556; WW to Sec. NZC, 8 Jan 1845, NZC 3/5; Exam, 14 Dec 1844.

49. Exam, 14 Dec 1844.

50. Saxton, Diary, 17 Mar 1846. 51. Ibid., 20 Aug 1847.

52. When he was appointed to Nelson the agents' salaries had been reduced as part of a general economy measure. Fox's was then £300. It was restored to £500 from 1 Jan 1846. The ~~agents~~ ^{areas} (for Fox, £350) were paid at the end of 1847. Sec. NZC, to WW, 11 Sep 1845, NZC 102/5; WW to Fox, 5 Dec 1847, NZC 203/6.

the settlement was his personal patrimony.⁵³ He excluded one man from consideration in the Wai-iti lease because he had been "contumacious";⁵⁴ such a lingering dream-world of feudal lordship was irreconcilable with genuinely popular control. His partnership with George Duppa was no help either.

Duppa was regarded as a thoroughly obnoxious man.⁵⁵ He certainly could be ruthless (he told Saxton if he did not shift his cattle out of the Wai-iti Valley he would starve them out);⁵⁶ but one suspects that a good deal of the bitterness against him was inspired by envy. He was a born pioneer, who landed every time on his feet through his own wit and will. When floods washed away thirty-five acres of his crop he laughed at the set-back and had the land reploughed and refenced in a day or so.⁵⁷ He was contemptuous of the whiners around him.⁵⁸ In business he was certainly sharp; it was said he would buy every sheep that came into the settlement in order to keep up the market for his own stock. Even if he did not much like Duppa, Fox liked his driving energy and courage and admired his shrewdness.⁵⁹ He liked to think he was himself something of an operator: when he added a small flock of goats to the rabbits, fowls, horses and dogs he kept in the enclosure around his

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53. Many complaints of Fox's failure to communicate with the settlers appear in the conversations reported by Saxton, Diary, passim. It may have been merely his way of doing business, for when in 1885 he sold his "Westoe" estate at Rangitikei it was described as a most hole-in-the corner transaction, not three people knowing about it, and the price well below the true value, Sherwill to Arthur Halcombe, 23 Jul 1885, Halcombe Letters. Nevertheless, at Nelson he was a public administrator and secrecy was suspect.
54. Ibid., 5 Mar 1846.
55. Revans to Chapman, 26 Jul 1841, 20 Jun 1842, Revans Letters; Dillon to his wife, 27 Nov, 29 Dec 1850, Dillon Letters, pp. 129, 140; Saxton, Diary, 17 Sep 1845.
56. Saxton, Diary, 2 Mar 1846.
57. Ibid., 20 Jul 1847.
58. Fox to WW, 24 Sep 1844, LS, 1844-48, Bett; Duppa to WW, 16 Sep 1844, NZC 3/14.
59. See next page.

house⁶⁰ he at first told Saxton they were to provide milk, but when news came later that meat was a very high price in Wellington he intimated that he had been given inside information on the shortage which was why he bought the goats.⁶¹ In less fanciful moments he wondered whether he would make any profits from the partnership, as Duppa certainly knew how to look after himself; others thought him an innocent yoked to a wolf and would certainly "get bit someday".⁶² In fact, he made money from the sheep - by the end of 1847 the joint flock numbered 3,000 head;⁶³ but it cost him dearly in popularity.

Once Duppa and Fox were known to be partners every action of the agent was interpreted in the light of this partnership, and every successful grab by Duppa was thought to spring from it.⁶⁴ The condition

59. Fox to WW, 24 Sep 1844, LS, 1844-48, Bett.

60. He lived in Captain Wakefield's old house for which he was supposed to pay rent to the Company but seemed not to do so often as the arrears were £110 at the end of 1847. He began to dig the foundations of a new house early in 1846 but worked stopped abruptly following the uproar over the "New Regulations" (see following pages) and he built a new room on to his existing one instead. The house as Fox left it is pictured in Allan, Nelson, facing p.208, and note IX, p.xvi. The artist is F.D. Bell, who took over the Nelson agency after him and lived in the house until Stafford bought it in 1849. WW to Fox, 24 Nov 1847, NZC 203/6; Saxton, Diary, 8 Apr 1846.

61. Saxton, Diary, 7 Oct, 5 Nov 1846.

62. Ibid., 1 Oct, 7 Oct 1846.

63. On Fox's estimation, which was unlikely to be conservative. Ibid., 27 Sep 1847.

64. The most notorious example was the award to Duppa in 1850 of 8,000 acres of land comprising Birch Hill station in the Wairau. Although branded by Dillon as "an infamous job" it is my opinion, which I cannot elaborate here, that Fox had very little to do with it. Duppa certainly got more than anyone else, but then he always did. The main references are Dillon to his wife, 18 Nov 1850, Dillon Letters, p.118; Spectator, Jan-Feb 1851; Saxton, Diary, 21, 22 May 1850; Fox to Sec. NZC 2 Jul 1850, NZC 3/20; Bell to Harington, 24 May 1850, CO 208/127.

that Duppa break in his 750 acres was regarded as a ridiculous attempt to justify the exchanges;⁶⁵ when he was well on his way to meeting the condition it was said he could only have done it with Fox's financial help.⁶⁶ When Saxton discovered that Duppa had been squatting for years on a valuable town section where he ran a lucrative butchery he jumped to the obvious explanation for Fox's leniency towards squatters.⁶⁷ When Fox set off on a major exploration trip to the Buller country Bell hinted it was to see what sort of grazing land lay for his sheep behind the Wai-iti.⁶⁸ When Fox scraped together enough Company money to cut a sheep track through to the Wairau Dr. MacShane thought it an odd coincidence that the agent's sheep were at the moment in need of new grazing.⁶⁹ Most of this was, at best, only half-true, but sufficient to damage the reputation of Fox - especially as he was more inclined to provoke such charges than refute them. He had seen early that, without doubt, wool would be the export commodity; and he did not mind saying so. He thought native leases "might be beneficial" and seemed blithely to ignore the contradictions between this remark and his stout defence of the sufficient price.⁷⁰ After his first journey through the Wairau he urged its immediate acquisition as Nelson needed land to run its flocks.⁷¹ Shortly after his sheep were unloaded

65. Resolutions of a public meeting to protest at Duppa's exchanges, Exam, 21 Sep 1844.

66. This was possibly true as the comment came from the manager of the Union Bank, who knew what people were worth, Saxton, Diary, 3 Mar, 1 Oct 1846.

67. Ibid., 12 Nov 1846.

68. Ibid., 12 Mar 1846. This charge hardly survives a glance at a map.

69. Ibid., 18 Sep 1846. Possibly true, although Morse and Cooper were the first to move their sheep in, A.D. McIntosh, Marlborough, A Provincial History, p. 91.

70. Exam, 2, 16 Nov 1844.

71. Fox to WW, 24 Mar 1845, NZC 218/2.

a leader appeared in the Examiner suggesting again that settlers might take up native leases in the Wairau even if the Company did not acquire the district.⁷² Fox was immediately identified as the writer of the article, which brought roars of protest. He was asked publicly to issue notices against such leases. This he declined to do; he said wryly the article had not caused him any apprehension. The settlers were highly suspicious of "certain flock-holders, possessing no original landed interest";⁷³ they did not want interloping outsiders like Fox and Duppa staking out claims in the Wairau before them. Saxton said that Fox's scheme for native leases showed that he had "forgotten he was also the Company's Agent here. He thereby betrayed that he thought his interests lay more with his sheep than with the Company."⁷⁴

Still the growing resentment was suppressed, held in check by the feeling, not in the least diminished by Fitzroy's administration, that the government did not care about them and it was unwise in the circumstances to come out against the Company - "blame must attach somewhere", said Saxton soberly,⁷⁵ Fox seemed to be riding high at the dinner to celebrate Fitzroy's recall. Domett toasted him, and roasted the diners at the same time by putting it to them whether the agent had ever done anything disagreeable or not. To such a direct prod there was only one response, and the cries of "No!" rang dutifully forth; the toast went down "with the greatest applause amid the roar of guns" from the fort.⁷⁶

72. Exam, 18 Oct 1845.

73. Ibid., 8 Nov 1845. See also ibid., 25 Oct, 1 Nov 1845.

74. Saxton, Diary, 25 Oct 1845.

75. Ibid., 8 Jun 1845.

76. Exam, 15 Nov 1845.

There was in all this some evidence that, despite Duppa, Fox had closed ranks with the settlers. But when the performance was repeated at the Oddfellow's dinner on New Year's Day 1846 he broke down and was unable to reply to the toast.⁷⁷ The tensions were becoming unbearable; for he had by then parted company with the settlers again and was more than ever the Company's agent.

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During the winter and spring of 1845 widespread indebtedness and despondency afflicted Nelson landowners;⁷⁸ the Company too was completely in the doldrums and Fox moved quite openly towards the settlers. He was in June fully in favour of a general reselection of land;⁷⁹ and in November urged, in a long strongly-worded letter to the directors, that no further land be sold and that the settlement should consolidate at its present limits. Half the land that had been sold was worthless, as was half that which remained. "The whole question will have to be looked in the face," he said; and warned that agitation would be much more open in the future.⁸⁰

Opposition to the Company had already become more vocal, and one suspects it was not without the agent's connivance. A letter in which J.D. Greenwood criticised the Company in London papers after the suspension in 1844 was "at last printed"⁸¹ in the Examiner in September 1845.⁸²

77. Saxton, Diary, 1 Jan 1846; Exam, 10 Jan 1846.

78. Saxton, Diary, 27 Mar 1845 (reporting the bank manager) and passim.

79. Ibid., 8 Jun 1845.

80. Fox to WW, 25 Nov 1845, NZC 3/16.

81. Saxton, Diary, 6 Sep 1845.

82. J.D. Greenwood to George Robins, 5 Sep 1844, published in the Sun, Morning Herald and, according to Greenwood himself, The Times.
Exam. 6 Sep 1845: Greenwood to Mrs Field, 21 Jan 1848, Greenwood Letters.

Alfred Domett was ostensibly editor of the paper but was a rather perfunctory one, perhaps because he seldom got paid; on several occasions Fox helped him with money, and in October 1845 Domett said that Fox had in effect taken over the paper.⁸³ So it is almost certain that Greenwood's strictures of the Company were printed with the approval, and possibly at the instigation, of the Company's agent. It is possible too that a letter from Monro to Fox expressing the belief that the directors "would sanction any steps of its agents, which should put purchasers from it, more particularly actual colonists, in possession of available land",⁸⁴ was contrived with Fox's approval to put pressure on the directors and back his frequent requests for wider powers over the land.⁸⁵ Another incident of some significance was the setting up on November 14th of a committee to inquire into the state of the settlement.⁸⁶ Although apparently inspired by the more militant opponents like Tuckett, the committee contained a leaven of moderates like Edward Stafford,⁸⁷ always a quiet man during these years. Fox could have wrecked the committee had he wanted, as he did the report it brought in.

The report was read to a packed meeting on the last day of 1845. Among its proposals was the recommendation that "the Company should reduce the scheme to its present extent, and from the remainder, allow the

83. Saxton, Diary, 23 Sep 1844, 29 Apr, 18 Oct 1845.

84. Monro to Fox, 11 Nov 1845, NZC 208/4. On several occasions during the constitutional agitation in Wellington Fox concocted convenient correspondence, usually with Dr Dorset as his tool. Monro was, of course, no tool; but their interests coincided here.

85. Fox to WW, 4 Mar, 11 Jun, 9 Jul, 24 Sep 1844, NZC 3/14; 24 Nov 1845, NZC 3/16.

86. Exam, 3 Jan 1846.

87. Saxton, Diary, 4 Oct 1845, 1 Jan 1846. The committee seemed to consist of Dillon, Bell, Dr Macshane, Monro, Sclanders and Stafford - except for Monro, all fairly moderate men.

holders of bad sections, to select better ones". This was what Fox had urged on the directors in November - but now he stalled. He told the meeting the committee's proposals had "unjustifiably alluded to what was solely the Company's affair and had not alluded to what were the only important subjects, the necessity for a Cattle Trespass Act, Scab Act, and a voice in the choice of Magistrates" - an improbable collection of red herrings, which only increased the impression that he was being warped by his pastoral interests.⁸⁸ The committee's report was "unexpectedly withdrawn without explanation", the committee itself was dissolved and a new one elected; the Examiner report was long and confused and gave prominence to a proposal that the settlement opt out of the Company and form itself into a corporation,⁸⁹ which was the last thing most people wanted.

Fox's volte-face reflected his position, which had changed between the time the committee was set up and the time it reported. In November he thought, with few regrets, that the Company was probably doomed;⁹⁰ then in December news arrived that it had triumphed in a three-day debate in the House of Commons and that Peel was about to give it a seven-year loan of £150,000.⁹¹ This put a different complexion on things: if the Company was to revive,⁹² Fox's too ready identification with disgruntled

88. Ibid., 1 Jan 1846.

89. Exam, 3 Jan 1846.

90. Saxton, Diary, 18 Sep 1845.

91. Ibid., 16 Dec 1845. After the debates had swung public opinion in England in favour of the Company the directors approached the Colonial Office for this sum, but in September accepted a loan of £100,000. Correspondence concerning this in GBPP, 1846, No. 271, pp.3-10.

92. The New Zealand Company store at Nelson was equipped with an "Apparatus for suspended animation", according to the inventory of Jollie to Fox, 16 Apr 1849, NZC 104/5.

settlers might jeopardize a good future; for although he found the Company an irksome employer, the chance that he might one day be given "the charge of some new settlement ... from its commencement" appealed so strongly to him that he was prepared even to give up "objectionable investments" in sheep to procure it.⁹³ On the other hand, he did not want to alienate the settlers too much in case reports about the Company proved false. So he stalled the proceedings of the settlers' committee as much as possible, was encouraged to see the resident owners and the agents of the absentees at each other's throats, and escaped in February for a month to explore the middle reaches of the Buller.⁹⁴ He could still command a good deal of support, especially now that there was the smell of place and money around the agency; there was more than one way to become popular. But the future would depend on the news that came from England.

It came at the end of March 1846. It was not what he had hoped for. The directors had framed a new set of regulations governing the sale of land in Nelson and on the night of 23 March 1846 Fox found himself reading these out to a packed and restless meeting at the Nelson Institution. Had Colonel Wakefield not been sitting alongside him he probably would never have read them, for it was soon apparent that the new regulations, which banned exchanges and actually increased the price of land,⁹⁵ were unrealistic and totally unacceptable. Fox rattled through in a low tone and at a great pace. He "never took so little

93. Fox to WW, 15 Mar 1847, NZC 104/4.

94. See below, pp. 139-41.

95. Sec to WW, 23 Oct 1845, enclosed in WW to Fox, 4 Jul 1846, NZC 203/5. For a very brief synopsis see Allan, Nelson, pp. 378-9.

pains to please or succeeded worse. The proposition as he put it sounded like a defiance". Consternation broke out when he finished. Asked if he intended to implement the arrangements, Fox replied curtly, "Certainly". The indignation increased, "not even Colonel Wakefield's presence could restrain an angry feeling," Saxton wrote. "I could see for the first time his usually cold eyes dilating, quivering and sparkling and the muscles of his mouth working with rising excitement."⁹⁶

Since Fox had bull-dozed aside the report of the committee to consider the state of the settlement the landowners had continued their meetings and schemes for remodelling Nelson multiplied.⁹⁷ Most of the opposition were, however, paragons of caution. It was usually difficult to get anyone to take the chair; and once when Monro proposed a deputation to the governor to complain about the Company he could get no seconder.⁹⁸ But, significantly, there were no defenders of the Company either. It took only the gross miscalculation of the new regulations to loose the brimstone around Fox's head. The Colonel said it was all Fox's fault for doing nothing to reassure the settlers and everything to antagonise them; and with this assistance he returned to Wellington.⁹⁹ An angry meeting assembled on March 27th. Fox did not attend, which the Colonel thought a great pity as he could have explained "the really friendly intentions" of the directors.¹⁰⁰ His absence also embarrassed some of his likely supporters, such as Saxton and Domett;

96. Saxton, Diary, 23 Mar 1846.

97. Saxton, Diary, the entries throughout January-March record numerous meetings. Fox said there were 5 or 6 schemes afoot, Fox to WW 22 Jan 1846, NZC 3/16; Exam, 24 Jan, 7, 28 Feb 1846.

98. Saxton, Diary, 3 Mar 1846.

99. Ibid., 25, 26 Mar 1846.

100. WW to Fox, 23 Apr 1846, NZC 203/5.

but Fox said he would only have been abused,¹⁰¹ and he was certainly right in that.

The leaders of the opposition were Monro, Greenwood, Henry Seymour and Joseph Greaves, but they were joined now by Constantine Dillon, hitherto a man very reluctant to take issue with the Company. No fewer than six documents of protest were displayed at the bank for signature and a man's political temperature was gauged by the number he signed, cool tempers like Domett and Stafford assenting only to those asking Fox to suspend the regulations and the directors to withdraw them.¹⁰² Fox felt that his instructions allowed no discretion on the question, so he published a notice that the regulations would go into effect from July 1st; but at the same time he told the directors that they were unrealistic, the regulations would never become operable and the opposition was bona fide and would go on.¹⁰³ Colonel Wakefield supported this strong letter and magnanimously "consented to divide the responsibility of rejecting (the regulations) with his 'coadjutor'", as he called Fox.¹⁰⁵

But the genie was out of the bottle now, and there was no getting it back in. At one of the meetings prior to the reading of the new regulations resolutions had been passed supporting a plan of Monro providing for reselection and a new town in the Wairau;¹⁰⁶ after the read-

101. Saxton, Diary, 26 Mar, 3 Apr 1846.

102. Ibid., 13 Apr 1846. Memorial to Directors NZC, 2 Apr 1846, enclosed in WW to Sec. NZC 14 Jul 1846, NZC 3/16; Resolutions of public meeting forwarded to Fox, Apr 1846. The other documents were a demand that Fox fulfill all engagements entered into by the Company, a similar demand to the directors, a petition to Parliament seeking protection against the Company, a letter to Ld. Stanley asking him to present the petition, ibid.

103. Fox to WW, 4 Apr 1846, NZC 3/16.

104. to 106. See next page.

ing, when Fox asked for a copy of these resolutions to send the directors,¹⁰⁷ he received a stinging reply from the protest committee to the effect that this plan was now a dead letter. The committee went on to scorn Fox's excuse that the new regulations were a result of the failure of the settlers to make their wishes known to the directors and said they thought that was what the agents were paid to do.¹⁰⁸ Readjustment of the Nelson scheme was no longer enough: it was demanded of Fox that he fulfill the "contracts specified in their original terms of purchase".¹⁰⁹ As this was conceded to be impossible,¹¹⁰ the objective was now quite clear - compensation. Fox knew when he was impotent, but he knew too how to be dignified in his impotence. He must have felt very bitter after the representations he had been making to the directors for two years; but his reply to the committee was a long, quiet, largely irrelevant, recounting of the Company's philanthropic history.¹¹¹ It was a red rag to men like Monro. The committee replied that

If there ever existed or was supposed to exist any relation between the New Zealand Company and its purchasers beyond that of seller and buyer, so far as we are concerned, we beg to repudiate it.¹¹²

Fox was repudiated as well. A few days later the mail brought a

104. WW to Sec. NZC, 23 Apr 1846, NZC 3/16.

105. Saxton, Diary, 16 May 1846.

106. Ibid., 17 Mar 1846.

107. Fox to Dillon, Monro, Greaves, Greenwood and Seymour, 19 May 1846, NZC 3/16.

108. Dillon and others to Fox, 5 Jun 1846, ibid.

109. Resolutions passed at meeting on 27 Mar 1846 for forwarding to Fox, ibid.

110. As early as September 1844 the meeting which protested at Duppa's exchanges made this clear, Barnicoat, Journal, 18 Sep 1844.

111. Fox to Dillon and others, 19 May 1846, NZC 3/16.

112. Dillon and others to Fox, 5 Jun 1846, ibid.

circular from the directors to each landowner which set out the new regulations and clearly exonerated the agents from responsibility for them:¹¹³ but while this put Fox in high spirits ~~for~~^r a time,¹¹⁴ and wrung a gracious letter from the hostile committee,¹¹⁵ it did, as Saxton pointed out, show that the agents had "the mortification of proposing that in which they had been as little consulted as ourselves".¹¹⁶ Fox's representation of settler interests to the Company had been ignored, his presentation of Company policy to the settlers had been repudiated: which ever way one looked at it he did not count for very much.

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Had Fox stayed with the settler party through the early months of 1846 instead of opposing schemes for redesigning the settlement with which he was in full sympathy, his position after the rejection of the new regulations would have been very strong. In the circumstances it was pitifully weak. With no guidance from the Company and the landowners and absentee agents snarling around him with five or six plans, all different, he did not know what to do.¹¹⁷ Rebuffed and embittered, he retreated into the sort of sullen defiance with which he had closed up the exchange system after the protest over Duppa in 1844. By the

113. Saxton, Diary, 13 Jun 1846.

114. Ibid., 11, 13 Jun.

115. Dillon and others to Fox, 27 Jun 1846, NZC 3/16.

116. Saxton, Diary, 13 Jun 1846.

117. Fox to Dillon and others, 8 Jun 1846, NZC 3/16; Saxton, Diary, 29 Jun 1846.

end of 1846 Elliot, the proprietor of the Examiner, said that Fox did not interfere with editorial policy at all now.¹¹⁹ Saxton thought "much might be said that seemed to be unsaid in favour of the Company".¹²⁰ Fox was no longer representing their grievances with any energy. He had asked again for full powers to negotiate with the settlers,¹²¹ but the most careful despatch he penned through the rest of 1846 was a long defence of his labour policy when Beit and Tuckett left for England to institute proceedings against the Company.¹²² "No one could see that he did anything," Bell said, "besides riding up to Mr. Duppa's twice a week on his own business."¹²³ He was just not interested.

The battle with the landowners continued throughout 1846, but it was more a matter of posturing than blows.¹²⁴ Fox showed no tendency to relax his defences until he knew the extent to which he would be granted power to negotiate. Dillon thought the agent was "taking too high ground"; but Dillon himself began to weary of the constant agitation and in December, when Tuckett stirred up a new flurry of opposition, showed signs of retreating into a moderate position from which, Staffor^rd said, "respectable people" would never have advanced.¹²⁵ Dillon suddenly sprang back to life in January 1847 when the "dreadful news" arrived that the Company was to have a proprietary charter.¹²⁶ The

119. Ibid., 3 Dec 1846.

120. Ibid.

121. WW to Fox, 1 Jul 1846, NZC 203/5.

122. Fox to WW, 15 Dec 1846, NZC 104/4; Fox to WW, 26 Dec 1846, NZC 3/17.

123. Saxton, Diary, 22 Aug 1846.

124. Ibid., 26 Sept 1846. Fox was reduced to saying the landowners had no claim because they had never yet presented their land-orders.

125. Ibid., 14 Dec, 26 Dec 1846.

126. Ibid., 6 Jan 1847. This was, of course, merely a rumour of arrangements being beaten out between the Colonial Office and the Company after Gladstone replaced Stanley.

thought of such a transfer of power was the more repugnant for Fox's recent lethargy and the protest against it was strongly framed. The agent's popularity was in the early months of 1847 at rock-bottom. Governor Grey made his second visit to Nelson in March 1847 and at the public dinner to honour him Fox was left no place at the head table, "such was the present disrespect". Grey made a vacancy by sending one of his officers from the room, but Fox "looked wretched, whether from ill health or pique, and did not rise to speak all evening".¹²⁷ No roar of guns and acclamation now.

When Judge Chapman went to Nelson in April he said that Fox was "as unpopular as he used to be popular".

He is a pleasant and in many respects a good fellow himself, but he does Colonel Wakefield's work unscrupulously and harshly. He also has a wretched skinflint of a wife. His table is covered with plate and glass with a miserable spare rib of pork for food.¹²⁸

The judge then launched into doggerel describing the meanness of his host. As Allan has seen fit to preserve this for posterity¹²⁹ it is worth noting that Chapman had an exaggerated view of his station and the habit of going on assize with an entourage of servants and ravenous children so that his coming frightened not only the Foxes but the amiable Dillon and the gracious Charlotte Godley, who noted that he "does not like bad dinners at all".¹³⁰ Others complained of how little the Foxes entertained, but Bell pointed out that the few "dress dinners" Fox gave

127. Ibid., 11 Mar 1847.

128. Chapman to his father, 6 Apr 1847, Chapman Letters.

129. Allan, Nelson, p.354.

130. Saxton, Diary, 19 Sep 1846, 24 Mar 1847; C. Godley to her mother, 8 Sep 1851, Letters, pp. 238-9.

were never reciprocated because people could not afford them.¹³¹ The £500 per annum the agent drew, plus the £300 from his father,¹³² made Fox a wealthy man in a poor settlement and likely enough to be an object of resentment even if he did not have the added liability of being the Company's agent. The fatter he got, and he got very fat,¹³³ the more offence he offered the scarecrows around him; if he spent liberally he was ostentatious, if he was tight-fisted he was mean. In this dilemma, Fox tried to create the impression of an abstemious nature, which did not altogether fit either his figure or the rich furnishings of his house,¹³⁴ but succeeded in driving Colonel Wakefield to take up quarters with Dillon Bell, "where he could get a breakfast".¹³⁵ It was possibly to reinforce this impression that Sarah once "foolishly said", and Allan unfortunately repeated,¹³⁶ that they lived on less than £50 a year; but the bank manager, in whose hearing the remark was repeated, said that from the books they spent "much more".¹³⁷ How they spent it is perhaps indicated in a letter of Dillon Bell (who at the time of writing had been through a blistering row with Fox) that they had "done many a poor settler good service in money matters" and when they left New Zealand in 1851 would be greatly missed "by sick and poor".¹³⁸

131. *Ibid.*, 22 Aug 1846.

132. Chapman to his father, 10 Oct 1848, Chapman Letters; Saxton, Diary, 20 Apr 1847.

133. Hodgson, who had been away for a year, remarked how he had expanded, Saxton, Diary, 26 Aug 1847. Saxton records frequent comments by various people to this effect, and all of them slightly resented it.

134. *Ibid.*, 5 Nov 1846, 20 Apr, 14 Jul 1847.

135. Bell to Harington, 2 Oct 1848, CO 208/127.

136. Allan, *Nelson*, p.354.

137. Saxton, Diary, 5 Mar 1847.

138. Bell to Harington, 26 Jan 1851, CO 208/127.

Sarah Fox was described by C.W. Richmond as

a little old maidish person... Very niminy piminy but kind in a frigid way... Married to anybody but Fox she would have been a little narrow minded, church-going, missionary box of a woman... A dresser in black of course she is, with white cap on, all beautifully prim and neat - the caps quivering all over with white bugles, and the gowns quivering all over with black bugles. Quite an aspen of a woman....¹³⁹

She was a very good pianist; and her drawings were supposed to appear in Illustrations to "Adventure in New Zealand" but seemed not to do so.¹⁴⁰ She kept the house rather too clean and neat and expected visitors to be much the same. In a colonial setting this was a great barrier to easy social intercourse; Saxton told Fox that "his lady making his home a drawing room so that a person must get dressed up ... was a restraint and his invitations would never be returned". Fox said he had not thought of it before and was obliged for the hint.¹⁴¹ Sarah's attempts to be a convivial agent's wife did not always meet with success: when she invited to dinner the chief officers of HMS "Calliope" none came until lunch next day when sixteen turned up, the first-comers demolishing the mutton hash meant to serve them all.¹⁴² She was, one suspects, not very happy in New Zealand. William was away much of the time, leaving her alone. She suffered a serious nervous breakdown in 1850 and was for ten days on the point of death. His devotion to her was constant, and never more so than during this crisis.¹⁴³

During May, 1847, Fox learned that the directors were willing to

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139. Richmond to Emily Richmond, 12 Sep 1857, Richmond-Atkinson Papers, i, 306.
 140. The title page contains her name as a contributor, but no copy that I have seen has contained her contribution.
 141. Saxton, Diary, 14 Sep 1847.
 142. Ibid., 20 Apr 1847.
 143. C. Godley to her mother, 6 Sep 1850, Letters, p.98; Fox to Harington, 18 Jun 1850, CO 208/127.

accept any plan for the reorganisation of Nelson provided it had the unanimous support of the landowners and was neither illegal nor unjust to others.¹⁴⁴ It was over to the settlers now, and at a series of meetings in June and July they devised the "July 1st scheme" under which the land question was eventually settled.¹⁴⁶

Fox was reticent about attending the initial meeting. He thought the landowners would not like him there; but when Saxton, as chairman, put it to them whether Fox should be invited, it was cried for "much as a pack of dogs would have voted for the introduction of a badger". A messenger was sent to fetch him. "He stood at the door," said Saxton, "and I informed him of the wishes of the meeting and he came to the table. His stout well fed person contrasted forcibly with many of the less happy and dissatisfied faces." They asked him questions as to the extent of his powers, which he answered very cautiously and quietly, saying he would support any reasonable plan and take 'unanimous' to mean 'great majority'. Gradually interest drifted from him, everybody started talking, and "Mr Fox, generally unobserved, gradually retired to the end of the room. My first impulse," said Saxton, "was to recall him to his post ... when I perceived that the inadvertance was general...."¹⁴⁷

The agent was displaced; the glory was gone.

144. Sec. NZC to WW, 26 Nov 1846, NZC 102/24.

~~145. Saxton, Diary, 21 May, 5 Jun 1847.~~

146. See Allan, Nelson, pp. 379-382.

147. Saxton, Diary, 16 Jun 1847.

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The government had, by its absence, been the most useful partner of Fox during the years of his influence. It was not difficult for him to bolster his leadership with constant references to government neglect in grand jury presentments and settler petitions¹⁴⁸ culminating in that seeking Fitzroy's recall.¹⁴⁹ The petition is ascribed to Domett, but it owes much to Fox. Mrs Reay said "Mr Fox was a mere rushlight in comparison with Mr Domett",¹⁵⁰ but it was Fox who supplied the oil.¹⁵¹ The recall of Fitzroy was celebrated with guns and toasting and cheers for Fox¹⁵² accepted still as leader for want of anything better.

Early in 1846 Governor Grey made his first visit to the south and was impressed most by the absence of government and the weakness of authority.¹⁵³ He went to Nelson with Colonel Wakefield, when the latter took the ill-fated new regulations, and made a great impression with everybody, promising to redress their grievances and spend money in Nelson.¹⁵⁴ The meeting at which he received the settlers was held immediately after the land meeting at which the new regulations had been read out by Fox. It was, ironically, also Fox who headed the settler deputation to the governor and read out the grievances of which they had to complain and

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148. Saxton, Diary, 13, 19 Aug, 2 Oct 1845, and passim. Such complaints were an important part of settler entertainment.
 149. See A.H. McLintock, Crown Colony Government in New Zealand, pp.186-89.
 150. Saxton, Diary, 27 Sep 1845.
 151. He arranged collections for Domett on several occasions, Ibid., 29 Apr, 23 Sep 1845.
 152. Exam, 15 Nov 1845.
 153. Standish, pp. 4-5.
 154. Saxton, Diary, 23 Mar 1846; unidentified letter from New Zealand Journal, 1846, in LS 1844-48, Bett.

which, for the want of one vote, would have included complaints against the New Zealand Company.¹⁵⁵ Such a contradiction was impossible to sustain. March 23rd marked a change in Nelson: the government was seeping in, the Company was leaking out.

Fox liked Grey - not a great man, he thought, but a good one; he added shrewdly that "he does not get to the bottom of things, and will I am afraid often find old wounds breaking out afresh".¹⁵⁶ In February 1848 Fox was appointed by Grey to be the Attorney-General of New Munster. The Company office was becoming a sinecure, Fox said. He resigned the agency, farewelled at a big public dinner at which he heard some of the nicest things to be said about him for years,¹⁵⁷ then stayed on in Nelson for a few months to complete the administration involved in the distribution of rural lands. Hearing rumours that the representative element of the 1846 Constitution was to be suspended he asked Grey for reassurance. Inferring from the reply that the rumours were correct, he resigned the attorney-generalship and made plans to go to Australia on a long visit. Colonel Wakefield asked him to stay on in Nelson; but at the same time a letter came from Grey offering him a "non-political" office investigating land claims in the north. This he accepted, in July 1848. Bell did not come over to Nelson, as Colonel Wakefield was ailing.¹⁵⁸ In September Fox appointed Jollie to the agency and left on the 21st with an exhortation to the settlers to "stand out for the privilege which is yours by right". "It is not often," the

155. Saxton, Diary, 3 Mar, 23 Mar 1846.

156. Fox to Harington, 23 Jun 1847, CO 208/127.

157. Exam, 25 Mar 1848.

158. Fox to Sec. NZC, 2 Oct 1848, NZC 3/9.

Examiner responded, "that we see a public officer sacrificing place to principle...."¹⁵⁹ No one seemed to know in Nelson that he was going to be a land claims commissioner.

When the "Harriet Nathan" brought the Foxes to Wellington they found that Colonel Wakefield had died some days before, whereupon Fox assumed the principal agency.¹⁶⁰

159. Exam, Sept 23 1848.

160. Fox to Sec. NZC, 2 Oct 1848.

CHAPTER 7.EXPLORER & PAINTER

Whatever the other reasons why the Wakefield system failed to work it was the shortage of good land which the settlers fixed on as their chief grievance and it was through making more land available to them on generous terms that the Company redressed this grievance. Land they had paid for, land they demanded. The Company's interests coincided with those of the settlers to the extent that the more land there was the more land there was to sell. So the search went steadily on. The agents were urged to explore.¹ There were few directives from Broad Street to which Fox responded more willingly.

For most settlers the beach was frontier enough and there was surprisingly little determination to travel into the interior. The ruggedness of the country and doubts as to their physical capacity to deal with it were a deterrent. Fox was not deterred. The aggressive confidence that called to his fellow Englishmen, "Follow me!"² responded immediately to the challenge of the wilderness, and the thick stocky body proved itself more than equal to the rigours this involved. Intrigue and bickering in the settlement, frustration of his plans and perhaps the oppressive decorum of his wife, urged him from behind towards those blue mountains which beckoned from afar.

1. WW to Fox, 26 Mar 1847, NZC 203/6; Sec. NZC to Fox 16 Apr 1849, NZC 102/18.

2. Fox, Colonization and N.Z. p.16.

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His first venture was in April 1843 when immediately after the collapse of his hopes on the rock of Judge Martin's oath he left for the Wairarapa with Charles Clifford, William Vavasour and Arthur Whitehead.³ At the Hutt they were joined by Henry Molesworth and Henry Petre and nine Maoris and set off up the valley intending to cross into the Wairarapa and travel out to the West Coast through the Manawatu. They were not the first Europeans to explore this country; the route they followed via the Pukaratahi had been traversed by Samuel Brees a bare two months earlier and approximated Robert Stoke's original route of November 1841.⁴ Nevertheless, the going was not easy. They were unable to cross the flooded Hutt River to the survey lines and were obliged to cut a route through the bush on the west bank. The slow progress and the wet tangled forest so discouraged Petre and Molesworth that on the 27th April, less than two days after the expedition had commenced, they retraced their steps to civilisation, taking two of the

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3. Fox, "Journal of an Expedition to the Wairarapa" (Sic), 25 April - 15 May, 1843. Unless otherwise stated all my information is derived from this journal which is now in the Hocken Library. Many years later Clifford recalled his impressions of the journey in a letter to J.H. Wallace, 23 Apr, 1855, cited in Gaudin, p.9 William Swainson had less accurate recollections, quoted by W.E. Bidwell and A.E. Woodhouse, Bidwell of Pihautea, pp. 33-4.
 4. NZGWS, 22 Feb 1843; Mulgan, pp. 118-119. A good modern description says "the party followed the Maori track roughly along the present Rimutaka Road route to the Tauherenikau turning north to the bush swamp and plain area between Greytown and Carterton to the Ruamahanga. They returned south parallel to it to roughly the vicinity of Martinborough from where they crossed to the west and left the valley by the way which they had entered it "A.G. Bagnall, "The Fox Water-colours of Otarara Pa", The Turnbull Library Record, Vol.1 (n.s.) No. 1, p.26.

Maoris with them.

Leadership was lacking, and little effort was made to keep the remaining men together. On their very first night up the Hutt the Maori, "Carimo", was left so far behind that he had to camp on his own. This "Carimo" had been brought along as an amateur guide, but when it was discovered that he had no first-hand knowledge of the country he was dismissed as a "chattering old mountebank" and his advice ignored. Fox had the grace, after the journey, to admit they should have followed "Carimo's" advice; had they done so they could have returned via the Manawatu as planned.

While on the western side of the Rimutaka Range they were confined by the valleys of the Hutt and Pakuratahi and so kept more or less together; but when they came out, early in May, into the open country of the Wairarapa each man was free to follow the route he thought best. First to part company were "Carimo" and two other Maoris. Fox's account says merely that they took a different route; but they were heavily laden and probably got behind, as Fox said later Maoris were no good for load-carrying and should not be employed. As they carried with them Fox and Whitehead's blankets and most of the hard provisions for the party their disappearance was a serious matter. Then the following day, May 5th, Vavasour and the remaining four Maoris were lost. Again Fox says merely that they took what they thought was a better route. Whether Vavasour would have been encouraged in this course after the disappearance of Carimo is open to some doubt; he was a lazy, languid man, inclined more to billiards than exploration and a likely candidate for being left behind in any party.⁵

5. Gaudin, pp. 3, 15, 17.

After May 5th neither Vavasour nor any of the Maoris were seen again. When Clifford, Whitehead and Fox returned to Wellington on May 15th there was no sign of the others. Some days later they returned around Pencarrow Head, having gone down the valley to the sea. Fox merely notes that Vavasour came back via the coast; but as Clifford remembered it he was brought back half-dead in a Maori canoe.⁶

After the disappearance of their companions Clifford, Whitehead and Fox were without food or bedding, and in the case of Whitehead with no spare clothes. Fox had a gun, and they lived for the next ten days⁷ on a diet of "flesh and water". They were constantly wet; after crossing a great swamp near the Ruamahanga River they stood throughout the night on a tiny island, hopefully drying their clothes over a meagre flame. By the time they got back over the ranges to Henry Moleworth's farm at the Hutt, Whitehead and Fox were close to exhaustion. Fox recognised that they had escaped from a situation which "might have proved serious"⁸ but seemed not to learn enough from the experience to lose the irritating and dangerous habit of driving on ahead of his party at breakneck speed, going his own route regardless of others.⁹

Despite the hardships, the serious purpose of the expedition was confirmed by the regular logging of miles and compass bearings, the nature of the soil and the cover it carried. This dedication to the practical characterises all Fox's written accounts of expeditions. To some degree it was a pretence, a Benthamite obligation to make pleasure

6. Ibid., p.9.

7. It had grown to 12 days when Fox wrote to E.G. Wakefield on 6 Jun 1843, CO 208/127.

8. Ibid.

9. Saxton, Diary, 30 Oct 1847.

useful; his paintings reveal a richer and more personal response to the country, and as far as the Wairarapa was concerned his practical interest in it must be gauged against his intention to leave New Zealand altogether.¹⁰ The observations he made however, were none the less valid and useful. His calculation that the Wairarapa contained 350,000 acres, the "greater part of which is fit for immediate occupation", erred, as did most such visual surveys, on the generous side. But that immediate occupation could follow he noted rightly. Within a year, Clifford's and Bidwell's sheep were moving into the Wairarapa and beyond the Company's scheme;¹¹ in accompanying Clifford in 1843, Fox contributed a little to the establishment of the squatting interest which was to prove so troublesome to him as principal agent of the New Zealand Company.

The Wairarapa journey was very important to Fox in establishing his fitness for the life he had adopted. No man could transfer from Oxford and the Inns of Court to the New Zealand bush without some apprehension as to how he would perform there. Fox had made the pace with strong men like Charles Clifford, taken the worst the country could offer, and come back from it sufficiently exhausted to have a rough idea of his own limits. He never after this felt overwhelmed by the country, as did so many of the settlers. Secure in his own capacity to deal with the problems it posed, he attained an easy relationship with it which he never attained with its people. For this reason it is the exploring, painting Fox who is the most relaxed and attractive

10. Fox to E.G. Wakefield, 6 Jun, 1843, CO 208/127.

11. Bidwell and Woodhouse, p.53.

and least superficial person; and it was in Nelson that Fox had most opportunity to explore and paint.

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From the time of his arrival in Nelson Fox was involved with exploration: his first official act was to send a search-party after the surveyor, S. Parkinson, who was overdue from the Wairau.¹² But the government was highly sensitive to European activity there and when Fitzroy indicated that he thought the valley should be left alone for a year or two¹³ interest shifted to the El Dorado of the "Great Plains" to the south-west. The origins of the "Great Plain" lay in the encounter in August 1843 between Thomas Brunner, then an unknown improver on the Company's survey, and some Maoris who had tales of a vast grassy plain, "boundless to the eye".¹⁴ When Fox arrived in Nelson Brunner was already searching for this plain but from his early reports Fox entertained little hope that it existed.¹⁵ Nevertheless, he authorised Charles Heaphy to explore to the south-west, and when Heaphy and his partner, J.S. Spooner, returned on November 23rd he paid them £100 - a very handsome sum considering they had found no plains. All that Heaphy had discovered was about 10,000 acres of grazing land at the head of the river that flowed from Lake Rotoiti. The lake they called "Arthur" after the dead agent, and the river "Fox" after his successor. Fox was later nearly drowned in his own river and it was

12. See above, pp. 57-8.

13. Fox to WW (Notes on Fitzroy's visit to Nelson), Feb 1844, GBPP, 1844, No. 556, App., p.424.

14. Saxton, Diary, 31 Aug 1843.

15. Fox to WW, 19 Sep 1843, NZC 12th Report, App. H, p.113.

he who changed the name to "Buller".¹⁶

While authorising these journeys Fox himself was office-bound in Nelson, dealing with labourers and Maori alarms. Not until October 1843 was he able to acquire Captain Wakefield's horse for his own use and go for a tour to Moutere and Motueka.¹⁷ In March 1844 he crossed Tasman Bay to visit Samuel Stephens, now chief surveyor, on the Takaka survey. Joined by John Barnicoat, they sailed to the mouth of the Motupipi to examine the coal, then explored for ten miles up the Takaka Valley. Stephens was lost in the bush, but next morning the party was found in a comfortable bivouac with pancakes, coffee and the remains of a pig. On their way back to Nelson a few days later the boat was becalmed and the party obliged to pull into a little cove where, like Robinson Crusoes, they built a fire on the sand and cooked and slept. Stephens was very much alive to the pleasures of this adventure, which he described in idyllic terms.¹⁸ Fox and the quiet Quaker became close friends during the year, visiting one another with their wives for several days at a time. On one visit of the Foxes to the Stephens' home at Motueka they walked through the bush to a great fuschia tree where in the descending quiet of evening their response to the world around them was, from Stephen's account, almost mystical in its quality and intensity.¹⁹ Stephens was a landowner, and the friend-

16. Heaphy to Fox, 30 Sep 1843, NZC 208/2; Fox to WW, 14 Dec 1843, NZC 3/13; Tuckett to Fox, 16 Dec 1843, NZC 208/2; Exam, 9 Dec 1843; Allan, Nelson, pp. 407-409.

17. Fox to WW, 7 Oct 1843, LS, 1843. Bett; Sarah Stephens to her mother, 20 Oct 1843, Letters and Journals.

18. Fox was away from Nelson from Mar 20th - 28th, Stephens, Journal, 20-27 Mar 1844; Barnicoat, Journal, 20 Mar 1844.

19. Stephens, Journal, 22 Feb 1845.

ship did not survive the land agitation but interesting journeys were made by the two men before they fell out.

Although he had remarked of his Wairarapa journey that it was undertaken too late in the season, it was even later in May, 1844, when, accompanied by Stephens and Francis Dillon Bell, Fox undertook an arduous expedition to the south-west. Leaving Nelson on May 14th they went on horseback for two days up the Motupiko River, sent back the horses twelve miles below Tophouse, then continued to the pass on foot after crossing the river thirty times. At the pass on May 17th, they cooked enough food for a week and set off towards Lake Rotoiti, which they reached the following morning in pouring rain. For two days they cowered in a blanket bivouac near the outlet of the lake. On the 20th they woke to find a foot of snow. Their food was running out more quickly than they anticipated, so they started back immediately. A very bad day, first through snow-covered scrub and then, when the sun came out, through heavy slush, ended in a night out on the hillside well short of their whare on the Wairau Pass. It took them an hour and a half to get a fire going; Stephens was frost bitten; Bell had sprained his ankle during the day and had abandoned his heavy blankets. Huddled around the fire, they survived a sleepless night. The following noon they reached the survey station on the Wairau Pass. Bell and Fox left Stephens, who had survey work to attend to, and set off for Wakefield. They lost the route and spent another night on the hillside, this time with neither food nor fire. Two very battered men reached Nelson on May 20th.²⁰

20. Stephens, Journal, 14-22 May 1844. I know of no other reference to this journey.

Heaphy left Nelson on March 5th for still another drive to the south-west.²¹ On the same day, Fox and his party were sailing through French Pass in search of a port for the Wairau - which the opinion of the House of Commons select committee on New Zealand, that unoccupied lands inhered in the Crown,²² had seemed to bring within reach again. Storms and calms disrupted the plan to sail to Cloudy Bay and Queen Charlotte Sound was explored instead. Acting on the advice of an American whaler they anchored in the Waitohi, or Picton, arm on March 9th, then made the first crossing over the low pass into the Wairau. They continued up the Wairau Valley, over Tophouse, where they joined Heaphy and Christie on their way back from the south-west, and returned together to Nelson.²³

Throughout the winter of 1845 and the following spring, no great journeys were undertaken by Fox, but he was constantly abroad on his horse within the settled districts and when his sheep arrived in September his critics noted the time he spent riding up to Duppa's sections to see to their management.²⁴ Bell thought it was these sheep which prompted the most successful and most celebrated of Fox's explorations - the journey with Heaphy and Thomas Brunner to the middle reaches of the Buller River in February 1846.

21. Exam, 22 Mar 1845.

22. GBPP, No. 556, 1844, pp. vii-ix.

23. The party comprised Fox, Stephens, F. Jollie, Dr. Renwick, W. Wells. They left Nelson on 3 Mar and were back on 22 Mar 1845. Exam, 29 Mar 1845; Fox to WW, 24 Mar 1845, NZC 19th Report, App. 14; Stephens, Journal, 3 Mar 1845; Saxton, Diary, 22 Mar 1845, 17 Mar 1846.

24. Saxton, Diary, 16-17 Sep, 17, 25 Oct 1845.

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In Fox's brief account of this journey he gives as its purpose the search for the lake and "Great Plain" which several expeditions had failed to discover.²⁵ Opinion in Nelson was that Fox doubted whether the Company would get the Wairau and hoped to make the rural sections in "the other talked-of available district" on the West Coast.²⁶ It is difficult to believe that Fox either felt the Wairau beyond the Company's reach or the "Great Plain" large enough or close enough to serve as a substitute for it; but Bell's allegation that Fox went to determine the extent of pasture land lying behind the Waiti Valley does not survive the most cursory glance at a map. The ascribed motives for exploration were largely invention; restless curiosity was enough.

It appears from Heaphy's account²⁷ that Fox and Brunner were intending on their own expedition and that Heaphy, who had been planning to go that way alone, fell in with them. Fox provided horses to carry their provisions over the initial stages and engaged the Maori guide, Kehu, to go with them. The party left Nelson on 2 February 1846.²⁸ As in 1845, they sent back the horses from the upper Motupiko and started towards Rotoiti with loads of 75lbs each, Brunner looking like a grotesque Atlas under his immense burden while Fox "with his small body

25. Fox to WW, 12 Mar 1846, NZC 3/16. Like most accounts by Fox this details the country but says little about the people.

26. Saxton, Diary, 24 Jan 1846.

27. Exam, 7, 14 Mar 1846. Published in full, with very useful notes, in Nancy M. Taylor, Early Travellers in New Zealand, pp. 188-203. My summary is based on this account.

28. According to Heaphy, in Taylor, p.189. Fox gives the date as Feb 1st, Fox to WW, 12 Mar 1846, NZC 3/16. As the 1st was a Sunday it is likely Fox was mistaken.

and topping load, suggested the idea of a peripatetic and overgrown mushroom...."²⁹ From Lake Rotoiti they followed the Buller River to the Howard junction, then went up that river until, on February 11th, they breasted the range and became the first Europeans to see Lake Rotoroa. Kehu took them to a canoe built by Maoris the year before and in this they spent the next two days exploring the lake. They then continued into new country to the south-west, crossing from the Gowan to the valley of the Tiraumea which they then followed down to the Mangles and the Buller, which they reached on February 17th.

They attempted to cross the Buller to the easier country on the right bank. Kehu went first, staggering in midstream and Fox, characteristically, was the first of the Europeans. He made it to the centre without difficulty,

but the pole which he used bent under him while bearing against the heaviest rush, and it was a matter of critical uncertainty as to whether he would attain the bank which he was approaching; a few steps more and he would be past the worst of the current, when he appeared for an instant to totter, and the next moment he was swept down the race entangled with his load. Fortunately the river was deep, or the consequences would have been fatal. Recovering a swimming position, he swam to the further shore, and was in a short time across....³⁰

The others were not quick to follow. Heaphy found a place where he could swim across, while the sensible Brunner continued down the same side of the river. In his own abrupt account of the expedition, Fox

29. Taylor, p.189. Heaphy does not identify the people he describes but the descriptions do that.

30. Ibid., pp. 200-201.

makes no mention of the incident which nearly finished him. He did the proper thing for a New Zealand Company agent and called the river the "Buller" after Charles Buller, who had battled so hard for the Company's interests in the House of Commons debates of 1845.³¹

They turned back from the head of the lower Buller Gorge a few miles above the Maruia junction. Their shoes were worn out, and any land beyond that point would be of little use to Nelson. Heaphy estimated that they were then twenty miles from the coast, and Fox that they were 140 from Nelson.³² Back at Lake Rotoiti on February 25th they drank half a bottle of whisky, "of course, for medicinal purposes" - after eleven consecutive days of fording rivers a legitimate prescription.³³ Kehu led them by a shorter route to the Motupiko, making them the first Europeans to cross Hope Saddle.³⁴ On March 1st Fox and Heaphy were back in Nelson, apparently followed two days later by Brunner and Kehu.³⁵

They had discovered nothing to excite the enthusiasm of the settlers. The valley land they had traversed was too remote from Nelson. They thought it might, however, provide a useful hinterland for a settlement on the West Coast near the Buller mouth, about which there were some promising reports, and Fox persuaded Brunner to set off within the month

31. Fox to WW, 12 Mar 1846, NZC 3/16.

32. Saxton, Diary, 2 Mar 1846.

33. It is perhaps unnecessary to add that the founder of the New Zealand Alliance was not at this time a teetotaler.

34. Allan, Nelson, p. 412.

35. Exam, 7 Mar 1846, says Fox and Heaphy returned on Sunday "29th February" - i.e. March 1st, and Brunner and Kehu the Tuesday after. The possibility therefore exists that there was some dissension on this journey, although all the evidence suggests it was very pleasant.

to explore from Cape Farewell to the Buller.³⁶ In the event, Heaphy and Kehu accompanied Brunner and their exploration extended far to the South of the Buller to the greenstone country of Arahura. They left on March 17th³⁷ and as he rehearsed his defence of the New Zealand Company before an angry land meeting that same night,³⁸ Fox must have longed to follow them into the peace of the wilderness. The explorers did not return for five months from the south. Fox was concerned for them and sent a shipment of flour to the Whanganui Inlet which they reached in August on their way home.³⁹

It was Fox's duty as agent of the New Zealand Company to describe the country to the Directors in London. His written despatches do this with economy of word and dearth of emotion, but his paintings convey more of his subjective reaction to the country. The journey to the Buller in February 1846 is remarkable for the number and the quality of the pictures Fox made, some of which go far beyond the demands of a topographical commission. He did at least nine paintings, almost all of high standard and two, "On the Grass Plain below Lake Arthur" and "The Mangles Grass Valley", which rank among his best.⁴⁰

36. Fox to WW, 12 Mar 1846, NZC 3/16; Allan, Nelson, pp. 412-413.

37. Heaphy's account of this journey is also published in Taylor, pp. 203-248.

38. Saxton, Diary, 17 Mar 1846.

39. Taylor, p.246.

40. "On the Grass Plain Below Lake Arthur (Rotoiti), 8th & 9th Feb 1846", "In the Aglionby or Matukituki Valley, looking into the Otapawa, 20 Feb, Fox Prints, 1965; originals, ATL. "Lake Howick, Rotu Roa, 11th & 12th Feb. (1846)", "The Mangles Grass Valley, on the Mangles or Teraumei River, 15 Feb 46", Fox Portfolio, 1967; originals ATL. "On the Buller River in the Aglionby or Matukituki Valley", Early Watercolours of Zealand, p.26; original ATL. "In the Aglionby Valley", Allan, Nelson, p.385; original, Hocken Library. The date given in Allan, p.xvii, is 1847, but this is a mistake. "On the Rota Roa, Lake Howick, 11 Feb 1846", ATL; there is a very poor reproduction in colour in Nelson Lakes National Park. "Te Mai at its junction with the Teuramai, 16 Feb 1846". ATL, unidentified picture, possibly the Buller, ATL, "Lake Arthur (Rotoiti) 7 Feb 1846", ATL.



Printed Offert, R. E. Owen, Government Printer, Wellington, New Zealand.

From the original watercolour in the Alexander Turnbull Library.

The Mangles Grass Valley, on the Mangles or Teraumei [Tiraumea] River,
15 Feb. 1846

by
Sir William Fox, K.C.M.G. (1812-1893)

In the "Grass Plain below Lake Arthur" a standing figure, probably Charles Heaphy, looks out across the plain to the blue mountains rising through the haze. On one side of him Kehu sits upright, smoking, on the other Brunner is preparing the meal. Opposite Brunner, Fox himself reclines against his load. He is discernible too in "The Mangles Grass Valley" standing on the left in light clothing and holding the gun, Kehu behind him and the tall Brunner pointing out across the flats. The four small figures in the void of evening convey a sense of controlled awe, a theme repeated frequently by Fox, not only in New Zealand where the demands of the directors for topographical panoramas may have encouraged him to concentrate on the wide vista, but in the United States, where he was free to interpret the landscape as he wished. The yellow expanse of "Wairau Plain, 1848"⁴¹ swallows up the tiny man who serves to give a sense of scale; but the same effect is found in "Chicago 1852":⁴² his impression of the city is from eight miles out in the prairie where rolling dry grass and grazing cattle convey a wonderful sense of emptiness beyond which the city pokes up a few insignificant forms into a vast sweep of sky. In his picture of Washington,⁴³ the Capitol, which "that Yankee Fox"⁴⁴ might have been expected to give some prominence, is tucked down in a corner of river and rolling downs. In all his best work, Fox bows down before the power of the wilderness. Pictures like "The Mangles Grass Valley", "Lake Wimpiseeogee",

41. ATL.

42. "Chicago from the Prairie, III, About 8 miles distant, 1852", ATL.

43. "Washington from Georgetown, 1853", ATL.

44. Charles Bowen to Godley, 16 Feb 1855, Canterbury Papers Vol. 3, Letters to Godley.

and "On Young Street near Toronto"⁴⁵ achieve an exciting tension between awe and repose.

The work of early exploring artists was usually referred to by themselves as well as by others, as "sketches". When Heaphy describes the explorers "sketching" by Lake Rotoiti in 1846,⁴⁶ and Charlotte Godley commends Fox's ~~sketch~~ sketches of Canterbury,⁴⁷ the impression is conveyed of the artist making outlines in the field which he worked up in water colours at home. Fox did finish off his paintings at home;⁴⁸ on the other hand, he worked very rapidly and was quite capable of making water colour paintings in the limited time available on his travels. He worked with a large brush, putting on his darker colours first, then toned down with another thick brush and plain water. The Rev. J.W. Stack, who saw him at it in 1861, said he could in this way "draw a forest, or a range of wooded hills, or a sunset, in a few minutes on a large sheet".⁴⁹ The question whether he applied the colour in the field or at home is of more than academic interest for it is the delicacy of colour which creates the sense of distant emptiness and mystery in his best landscapes. If these were painted after his withdrawal from the country then the impact it had upon him must have been very great indeed.

C.W. Richmond thought Fox "a capital draftsman, but a coarse colourist"; adding that his perspective was "uniformly good".⁵⁰ Of Fox's best paintings the reverse is nearer the truth: the draughting is often

45. "Lake Wimpiseeogee, N.H., 1853", ATL.

46. Taylor, p.190.

47. Charlotte Godley to her mother, 20 Jan 1851, Letters from Early N.Z., p.164.

48. Saxton, Diary, 29 Jan 1848.

49. A.H. Reed, ed., Further Maoriland Adventures, p. 30.

50. C.W. Richmond to Emily Richmond, 12 Sep 1857, Richmond-Atkinson Papers, i, 306.

clumsy and the perspective awry,⁵¹ but the subtlety of the colouring is superb - authentic and romantic at the same time. Reproductions do not capture the sheen on the tussock in the "Grass Plain below Lake Arthur", nor the creeping green shadows of evening that invade the "Mangles Grass Valley". The pictures on Lake Rotoroa are most delicately coloured; one which captures the still heat of noon on Lake Rotoiti is far too light to reproduce at all.

Fox's eye was finely attuned to colour. When he went to North America he left the light hazy blues and greens produced by the more intense New Zealand light and responded to the rich browns and reds of the softer northern autumn. But lapses which in New Zealand had produced nothing worse than claustrophobic greenish-black masses that did in a heavy way interpret the rainforest, in North America produced violent stews of puce and purple and red; and it was addicted to these concoctions that he came home, painting increasingly with reds and increasingly remote from the land which in the forties had drawn from him a deep, primeval, indeed religious, response.

Fox interpreted the power of nature best in his sense of space: low horizons with broad vaulting skies. Where he attempted to concentrate awe in a single monolith he invariably failed: his El Capitan does not get off the ground and his redwood trees lack grandeur.⁵² The powerful emptiness of his best landscapes are heightened by the tiny figures, the nestling few houses, the wisp of smoke from a colonial cottage

51. The figures in "In the Aglionby... 20th Feb 1846", Fox Prints, are wooden, like most of Fox's, but it is still a successful landscape, delicately coloured. The perspective is faulty in "Lake Howick... 11th & 12th Feb 1846", Fox Prints, but the colouring is far from coarse.

52. "Cap of Liberty, Yosemite", "The Sentinels, Calaveras", ATL.

set in the wilderness.⁵³ The scale of man to the world is ever emphasised, but his right to be there is unquestioned and the posture he assumes is one of quiet confidence and a sense of ultimate conquest.

He responded not only to the spirit of the country but to its potential as well. Drifting with Heaphy and Brunner along the forested walls of Lake Rotoroa he reflected how the place could be developed as a spa for ailing Europeans on leave from Indian service; the speculations ran on to include mules and pleasure boats, and a hotel at the Gowan financed on the tontine principle.⁵⁴ There was no clash between the developer and the lover of the wilderness, as we have come to expect in the twentieth century; Fox's best paintings show man so close to and part of nature that his transformation of the earth was itself a truly natural thing.⁵⁵ He was fascinated by the frontier as a physical phenomenon, by the relentless penetration of settlement and cultivation into the wilderness. After a ride on horseback to the Wairarapa in 1850 he reflected on his first visit in 1843 when it had taken him five days to cover a distance he now did in one. There is not for a moment any suggestion that something has been lost.⁵⁶ After a visit to Canterbury in 1858 he wrote to Godley: "I know of nothing more exciting than to ride on good roads through the midst of colonial villages, farms, and gardens where less than ten years ago, I 'explored' with blankets on my back ... it in some small degree rewards one for

53. As "On Young Street near Toronto, Canada, 1852", ATL.

54. Fox to WW, 12 Mar 1846, NZC 3/16; Taylor, p. 196.

55. His belief that the Maoris and the settlers would best be left to adjust to one another on their own terms looks less unreasonable in this light.

56. Fox to Sec. NZC, 13 Oct 1848, NZC 3/9.

colonizing and realizes something of the dreams one dreamt when one first formed the Robinson Crusoeish design of pitching a tent in the Pacific isles."⁵⁷

Robinson Crusoe was not, however, a coloniser. He was a cast-away. His virtue was self-reliance and his predicament, like that of Melville's Ahab, was aloneness. Fox too was alone, isolated from the settlers by the nature of his office and from his own more sensitive self by the postures it obliged him to adopt. Yet he desired intimacy; he wanted to be liked. There was an emptiness in the heart of this childless man who celebrated his birthday by giving parties for other people's children.⁵⁸ He hoped the men of the settlement would call on him, unannounced and in their shooting jackets; but the easy familiarity this implied was frustrated by Sarah's formidable sense of decorum and the reticence required of the Company's agent.⁵⁹ Leading settlers like Constantine Dillon and Edward Stafford were friends only in the polite sense, Alfred Dommet an exile lost in the colonial wilderness to be given a little aid now and then, John Saxton discreet enough for confidences but too ineffective to be a companion, George Duppa astute as a partner but too greedy to be loved. The quiet Samuel Stephens was a man he understood, and who understood him, but the business of the agency came to cloud the understanding. Which, but for loyal Sarah left him alone.

Aloneness is bearable only where the crowd is thinnest. To escape the bickering in Nelson Fox sought the peace of the back-country.

57. Fox to J.R. Godley, 1858, Canterbury Papers, Letters to Godley, Vol.3.

58. Saxton, Diary, 21 Jan 1846, 22 Apr 1847. Fox's birthday, it seems, was a moveable feast, but he was born on Jan 20th.

59. Ibid., 14 Sep 1847.

When settlers' parties went with him they dragged the affairs of Nelson at their lagging heels and fouled his retreat with Company business. At these times he was at his most obstinate and disagreeable. Stephens recalled a journey where Fox led at such a pace that by the end of it the tail of the party was two full days behind; the constant arguing about the route, which Stephens also recalled, may have encouraged Fox on his way. W.O. Cautley dreaded the thought of going with him in 1847 to select a port for the Wairau - Fox was no sooner out of the settlement, Cautley said than he roared ahead, saying he wanted to get home again.⁶⁰ A man who leaves his companions two days in arrears cannot be said to hold them in high esteem; and the fact that he is able to leave them may provide the reason. Fox liked to go hard, and in Brunner, Heaphy and Kahu he found kindred spirits. They began their journey with loads of 75lb,⁶¹ enough to have broken the necks of most of the Nelson gentry, and carried 70lbs nearly all the way.⁶² With these weights they were engaged in eleven consecutive days of river work, they consistently covered a dozen miles a day which, given time for route-finding and sketching, meant a good pace. Yet in Heaphy's good-humoured account there is no indication that the expedition was other than a pleasure. The camaradic is glimpsed on Lake Rotorua where alternately they paddled the canoe in furious bursts of song, and let it glide silently by the forested banks; it is seen in "the pursuit of comfort under difficulties", by which they

60. Ibid., 30 Oct 1847.

61. Taylor, p.189.

62. Saxton, Diary, 2 Mar 1846.

amused themselves in wet bivouacs. It was, says Nancy M. Taylor, "evidently something of a picnic".⁶³ Solitude is the better for one's having friends to share it with.

Some explanation is needed for the concentrated quality of the pictures painted by Fox in this month of February 1846 and it may well lie in the combination of comradeship and wilderness which he found so completely in the Mangles Grass Valley. His pictures are flooded with tranquility. And no man could look on that country with such gentleness who was not sure of himself, sure of his companions and in perfect communion with the country around him. Dr. McCormick suggests the presence of the artist Heaphy may have inspired Fox on this occasion.⁶⁴ It is possible, although there were plenty of other opportunities for Heaphy's inspiration to be contagious. Fox did not think highly of Heaphy as an artist, although he acknowledged his talents as a maker of maps.⁶⁵ Heaphy was probably more important to Fox as a companion, an explorer, like Kehu, and Brunner.

The friendship between the shy surveyor's assistant and the aggressive Oxford-educated barrister is one of the most interesting things about Fox. He so thoroughly recognised Brunner's qualities that they must have approximated to an ideal to which he himself aspired.⁶⁶ When Brunner and Heaphy returned to Nelson in August 1846 from their exploration south from Cape Farewell, Fox thought it fitting to fix Heaphy's name to the river then known as the Wakapoai and Brunner's to the Ara-

63. Taylor, pp. 187, 196, 197, 201.

64. E.H. McCormick, Sir William Fox, Public Man and Painter (brochure to accompany the Fox Portfolio), p.11.

65. Saxton, Diary, 24 Mar 1847.

66. The similarity between Brunner's journal of his great expedition and Robinson Crusoe is remarked in Allan, p.416.

hura.⁶⁷ Then proposals for a new expedition, to follow the Buller to the sea, go south, and attempt to cross to Port Cooper, were accepted by Brunner. Fox gave him £30, adding another £10 to this sum when he returned.⁶⁸ Brunner's journey is acknowledged as the greatest feat of exploration ever undertaken in New Zealand,⁶⁹ and it is to Fox's credit that he played a part in setting the explorer on his way. On Thursday 3 December 1846 the two men said goodbye on the road between Nelson and George Duppa's farm. Over a year passed before news came back from Brunner, when a letter written from Taramakau in October 1847 reached Fox the following February - "when I may return," Brunner wrote, "God only knows, I have no idea."⁷⁰ Six months later Fox publicly toasted his long-gone friend - if he was still alive, which he hoped.⁷¹ Brunner returned on 15 June 1848, to a Nelson out-station at ten o'clock at night,⁷² thirty four months after his departure.

He got work for a while around Nelson but early in 1849 he was in difficulties and his health was poor.⁷³ Fox authorised £25 from the Company's funds towards buying him a flock of sheep.⁷⁴ Three months later Fox, now the principal agent in Wellington, told Bell at Nelson to give Brunner employment if at all possible.⁷⁵ Bell had already given Brunner temporary work,⁷⁶ but encouraged him to go to Port Cooper

67. Fox to WW, 22 Aug 1846, NZC 3/16.

68. Taylor, p.260.

69. *Ibid.*, p.251.

70. Brunner to Fox, letter in the *Exam*, 12 Feb 1848.

71. *Exam*, 25 Mar 1848.

72. Taylor, pp. 318-319.

73. Jollie to Fox, 19 Feb 1849, NZC 104/5.

74. Fox to Sec. NZC, 23 Feb 1849, NZC 3/19.

75. Fox to Bell, 26 May 1849, NZC 104/5.

76. Bell to Fox, 4 Jun 1849, NZC 104/5.

where Captain Thomas was told of Brunner's qualities and claims and Fox's desire that he should have work. Thomas made him Clerk of Works at Canterbury,⁷⁷ but was soon after obliged to suspend the public works. Brunner was back in Nelson in September, 1850 where Bell again found him a job with the Company. It was grossly underpaid,⁷⁸ but Fox was at the time pleading privately to London that he could not negotiate Company bills in New Zealand and that the agency was on the verge of bankruptcy,⁷⁹ so the very retention of Brunner is a mark of the respect in which Fox held him.

* * * * *

Since the "Great Plain" had wholly evaporated in the West Coast rain attention in Nelson now riveted again on the Wairau. At the end of February 1847 C.W. Ligar, the surveyor-general, went with Fox and William Budge to examine the district. They intended to go by sea to Port Underwood and travel up the river but changed their plans, returned to Nelson and went into the Wairau from its head, traversing the country completely before returning to Nelson.⁸⁰ The Wairau was purchased from the Maoris the following month; the Nelson settlers were able at last to occupy it legitimately.⁸¹ At the end of 1847 a group of them went in with Fox to select a site for a port.

77. Torlesse Papers, p. 92, n.19.

78. Bell to Fox, 26 Sep 1850, NZC 218/4.

79. Fox to Harington, 30 Sep 1850, CO 208/127.

80. Ward, Journal, 1, 8 Mar 1847; Ligar to Grey, 8 Mar 1847, A.M. McKay, A Compendium of Official Documents Relative to Native Affairs in the South Island, Vol. 1. no page no.

81. McKay, i, 200 ff.

Few expeditions gave Fox less pleasure than this one. Complaints about the speed he would go were being made before they had even left,⁸² which encouraged him to go still faster. Joseph Ward, who was working with Budge on the Wairau surveys, encountered Nelson landowners strewn through the bush at intervals of several days,⁸³ and when they began to trickle back into Nelson from December 24th on, exhaustion gave place to indignation. Fox had pressed on rudely, said Greenwood, and lost a good opportunity of ingratiating himself with the settlers. The party had been met on the Wairau River by a canoe, for which all had agreed to pay £1; but Fox scorned this as an unnecessary luxury and while the gentry took their seats he strode off vigorously along the bank. Offensive remarks about his refusal to pay the £1 plunged him into a sullen silence. The following morning he was still in high dudgeon; without a word of greeting, he went off on his own into a side valley of the Wairau up which the deputation might not be expected to follow, leaving instructions with the surveyors that if he was not back in ten days they were to send him provisions;⁸⁴ it was here that he probably painted the endless yellow emptiness of "Wairau Plain".⁸⁵ From this eremitic interlude he emerged on the day following Christmas, more kindly disposed to his fellow men. Most of the

82. Saxton, Diary, 30 Oct 1847. It is not clear when they left but it was some time in November. The party was Domett, Stafford, Greenwood, Cautley, Bell, Dillon, Moore, Budge, White, Jollie and Fox, Fox to VW, 19 Jan 1848, NZC 3/18; Ward, Journal, 7-9 Dec 1847.

83. Ward, Journal, 7-9 Dec 1847.

84. Saxton, Diary, 24 Dec 1847. The valley was probably the Waihopai, up which Jollie had penetrated thirty miles some time before, *ibid.*

85. "Wairau Plain, 1848", ATL.

gentlemen of the deputation were now home in Nelson, but Fox overtook a survey party and on a very hot day, and in spite of a bout of diarrhoea, relieved Joseph Ward of some of his load and humped it for him over Tophouse.⁸⁶

The party had examined Port Underwood and Waitohi and preferred the latter, which confirmed an opinion long held by Fox.⁸⁷ Colonel Wakefield had been critical of Waitohi as too deep to provide a good anchorage,⁸⁸ so in the paintings Fox made of the two harbours⁸⁹ he took pains to touch up that of Port Underwood with the darkness of storm and wind "lest the Directors should think it more interesting than the Waitohi".⁹⁰ His view of the latter is placid and from a great height.

While he was at Waitohi Fox approached the Maoris with a view to purchasing the site on which there was a village. He found them willing but was unable to negotiate a sale. When Grey arrived in Nelson at the end of January 1848 Fox asked his help. The governor declined to act himself, but agreed to confirm the purchase if Fox could effect it. He also offered Fox the services of Henry Kemp as an interpreter. Fox then chartered a small boat,⁹¹ went over to

86. Ward, Journal, 26-28 Dec 1847.

87. Fox to WW, 19 Jan 1848, NZC 3/18.

88. Saxton, Diary, 23 Mar 1846, 26 Aug 1847.

89. "Bird's eye view of Waitoi, 1848", Early Watercolours of N.Z., p.27; original, ATL. "Ocean Bay, 1848" (Port Underwood), ibid, pp.28-29; colour reproduction in Journal of Ensign Best, frontspiece: original, ATL.

90. Saxton, Diary, 29 Jan 1848. His doctoring was rather heavy-handed - the bay looks about to be inundated by enormous waves.

91. Fox left in the middle of a dinner-party on the evening of February 8 to join the ketch "Supply", which arrived in Wellington on February 10th. He left Wellington with Kemp in the same boat on 17th to go to Queen Charlotte Sound. After the negotiations failed he took Kemp back to Wellington returning to Nelson himself on March 2nd. Saxton, Diary, 8 Feb, 2 Mar 1848; Independent, 12 Feb 1848; Spectator, 19 Feb 1848.

Wellington, picked up Kemp and returned to Queen Charlotte's Sound. It was over two months since his last visit and in the interval the principal chief had died, two-thirds of the Maoris had decided to leave the Sounds for Taranaki and the remainder were no longer eager to sell Waitohi, offering the inferior Waikawa instead. Fox declined to deal and left the Sound.⁹² The Waitohi purchase was left to Bell and Grey to conclude in December 1848.⁹³ Fox had made his last important journey as Nelson agent.⁹⁴ On 21 September 1848 he and Sarah left Nelson in the "Harriet Nathan" for Auckland.⁹⁵ Arriving in Wellington he found that Colonel Wakefield had died, and immediately took over the principle agency himself.

* * * * *

Fox was most real in the wilderness, where the decisions were simple and he had the power to see them through. He derived immense pleasure from his elemental capacity to swim cold rivers⁹⁶ and climb hot mountains. The physical qualities he discovered in himself he learned to admire in others: the penniless "clod-hoppers" Fox allowed

92. Fox to WW, 10 May 1848, NZC 3/18.

93. Bell to Sec NZC, 6 Jan 1849, NZC 25th Report App., No. 17; Grey to Earl Grey, 1 Feb 1849, Ibid., No. 12.

94. A painting entitled "Guards Bay, Jan. 1848" is difficult to fit in. Fox was back from the inspections of the ports by 30 Dec 1847 and did not sail again until 8 Feb 1848 when he went to Wellington for Kemp. The pleasant picture is reproduced in Early Watercolours of New Zealand, p.30; original, ATL.

95. Exam, 23 Sep 1848.

96. He startled his party in 1872 by diving into the Waiho River just below Franz Josef Glacier, J.D. Pascoe, "William Fox in Westland", The Turnbull Library Record, Vo. 1 (n.s.), No. 2, Nov 1967, p.13, which also contains two pictures by Fox of the Franz Josef and Fox Glaciers.

to occupy a little land set to with spirit, making do with what they had;⁹⁷ while John Saxton, for all his Hebrew erudition and talents in music and painting, did little but complain. Fox shared with the labouring farmers a pride in self-reliance and sense of adventure to which Saxton was oblivious; still, it was Saxton, educated and refined, who approximated more to what he aspired.

There was a conflict in him between what he had learned in England and what he had learned in the colony. His formal education in England was long and expensive and, imprinted as it was with the seals of an Oxford degree and a barristers wig, had a built-in assessment of its own value which it was not likely he could ever reject. In the colony he learned at least the limitations of this equipment and discovered that a good pair of legs was worth two sets of Blackstone's Commentaries. But the myth of masculinity had not yet emerged; Fox himself had to contribute a good deal, both by example and by tight-lipped, understated exploration accounts, to the gradually dominant notion that a man's worth was measured around his biceps.

When Fox came to write on education, it was to advocate a system available to all and the same for all, for education unlocked the mind to what happiness was and provided the means to secure it; such knowledge was not innate in men, it had to be implanted. A series of newspaper articles he published on the subject have historical importance

97. Fox to WW, 6 Jul 1848, NZC 3/18.

98. Published in the Independent in June and July 1849 and reprinted in Exam, 7, 14 Jul, 11, 18 Aug 1849. Attributed variously first to Domett, then to Thomas Arnold, the articles are now convincingly shown to be Fox's by J.D.S. McKenzie's "Note" in The New Zealand Journal of History, Vol 1, No. 2, Oct 1967, pp. 199-203.

because they outlined the system which was later introduced, but the formal utilitarian terms in which they are couched do not adequately reflect Fox's feelings. He saw the impact of the country itself on men, saw the "development of the faculties and energies of the people"⁹⁹ even without schools. He recognised that the colony itself was a school,¹⁰⁰ and what formal education should impart to people was the tools to learn better from it. He thought Thomas Arnold's departure from Nelson¹⁰¹ no great tragedy and that the best man to replace him would be found somewhere else than Oxford and Cambridge.¹⁰² There was an anti-intellectual streak in the educationalist, because he had discovered in his confrontation with the wilderness a new dimension in himself which had not been revealed in the halls of learning.

The discovery had taken place in the context of exploration - the discovery of land. It was not, therefore, simply his own muscular power which he experienced, but the emptiness, solitude, distance and, most of all, mystery, which lay behind the inhabited regions. Out there, man was minute, so there was awe in the landscape; but he found that man was part of it, and could go on through the emptiness and solitude and into the distance, and come back again, so there was tranquillity too. There was no need for books when the cosmos itself instructed; in art there was no need for invention when reality was so powerful. And it was powerful in the Nelson back-country and, later, in the vast untenanted new continent of North America. It was when the mystery

99. Which was one reason why societies were formed, Exam, 7 Jul 1849.

100. Fox to WW, 6 Jul 1848, NZC 3/18.

101. Arnold for a time ran a school in Nelson, Arnold to Mrs Arnold, 11 Mar 1849, Arnold Letters, p.108.

102. Fox to Sec. NZC, Notes on Bell's Report on Nelson, (1850), NZC 3/20.

receded from the land that Fox's art declined into conventional phrases: in "Powhata Roa" (1874),¹⁰³ the awe is assembled from pre-fabricated clichés - the crag, the beam of moonlight, the man gazing upwards, the man bowed down; the scene is such that should be imbued with awe, so it is a worthy subject; but the artist himself feels nothing, and imparts nothing to the picture.

The mystery in the land had receded less before the thrust of settlement into the interior than ^{before} the conquest of the politician in William Fox. By the end of 1846 the days of comfortable, uncontested authority were gone for good. When he succeeded to the principle agency in 1848, Fox hoped to work in harmony with Grey; but the governor wanted no "coadjutor" in the south. The two men, loners to the last, and understanding each other perfectly, circled warily, blocking and cutting but the weight was all now with the governor and Fox was reduced to noisy indignation. The strain of being plausible took its toll of sensitivity to what was genuine and what false. Gradually the artist in him closed down. It was the best part of him; the most restful, the most truthful, and the least hyperbolic. Without it he had to rely too much on the equipment of the special pleader and the second-hand slogans of the doctrinaire.

But he went on for ever, travelling, exploring; driving into the streaming bush of South Westland when he was sixty¹⁰⁴ and knocking his head against the Taranaki sky when eighty;¹⁰⁵ perhaps in search of the grass plain below Rotoiti, or a Mangles valley, where mystery, truth, remained.

103. "Powhata Roa, Taupo, by Moonlight (1874)", Fox Portfolio; original ATL.

104. Pascoe, Turnbull Library Record, Vol. 1 (n.s.), No. 2, pp.10-18.

105. Scholefield, Notable New Zealand Statesmen, p.65.

B I B L I O G R A P H Y

The following abbreviations are used: ATL, Alexander Turnbull Library; AUL, Auckland University Library; B, Bett Collection; CM, Canterbury Museum; CUL, Canterbury University Library; Hock., Hocken Library, Dunedin; NA, National Archives; OUL, Otago University Library; Vict., Victoria University Library.

1. GOVERNMENT, UNPUBLISHED.

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2. GOVERNMENT, PUBLISHED.

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